Superfund:

Building on the Past,
Looking to the Future

The 120-Day Study

Action Plan

February 2005

Table of Contents

List of Acronyms

AA	Assistant Administrator
ARA	Assistant Regional Administrators
ARAR	Applicable or Relevant and Appropriate Requirement
ASTSWMO	Association of State and Territorial Solid Waste Management Officials
BCRLF	Brownfields Cleanup Revolving Loan Fund
BOD	Superfund Board of Directors
BPA	Blanket Purchase Agreement
BPEB	Budget, Planning and Evaluation Branch
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System
CLP	Contract Laboratory Program
CO	Contract Officer
COE	Army Corps of Engineers
COR	Contracting Officer Refresher
DD	Division Director
DOJ	U.S. Department of Justice
EFAB	Environmental Financial Advisory Board
EPA	U.S. Environmental Protection Agency
EPM	Environmental Program's and Management
ERRS	Emergency and Rapid Response Services
ESAT	Environmental Services Assistance Team
FAR	Federal Acquisition Regulations
FASTAC	Field and Analytical Services Teaming Advisory Committee
FTE	Full-time Equivalent
FY	Fiscal Year
GAD	Grants Administrative Division
GCRC	Grants Customers Relations Council
GMC	Grants Management Council
GMO	Grant Management Officer
GPRA	Government Performance and Results Act
HHS	U.S. Department of Health and Human Services
IAG	Interagency Grants
ICIS	Integrated Compliance Information System
ICS	Incident Command System
IGCE	Independent Government Cost Estimate
IGMS	Integrated Grants Management System
IMT	Incident Management Team
IPAC	Interagency Payment and Collection (system)
LTRA	Long-term Response Action
NACEPT	National Advisory Council for Environmental Policy and Technology

NCP	National Contingency Plan
NPL	National Priorities List
NPM	National Program Manager
NRRB	National Remedy Review Board
OAM	(U.S. EPA) Office of Acquisition Management
OARM	(U.S. EPA) Office of Administration and Resources Management
OBCR	(U.S. EPA) Office of Brownfields Cleanup and Redevelopment
OC	(U.S. EPA) Office of Compliance
OCFO	(U.S. EPA) Office of the Chief Financial Officer
OCPSATF	One Cleanup Program Site Assessment Task Force
OECA	(U.S. EPA) Office of Enforcement and Compliance Assurance
OEM	(U.S. EPA) Office of Emergency Management
OFM	(U.S. EPA) Office of Financial Management
O & M	Operations and Maintenance
OMB	Office of Management and Budget
OPEI	(U.S. EPA) Office of Policy, Economics and Innovation
ORD	(U.S. EPA) Office of Research and Development
OSC	On-scene Coordinator
OSRE	(U.S. EPA) Office of Site Remediation and Enforcement
OSRTI	(U.S. EPA) Office of Superfund Remediation and Technology Innovation
OSW	(U.S. EPA) Office of Solid Waste
OSWER	(U.S. EPA) Office of Solid Waste and Emergency Response
PART	Performance Assessment Rating Tool
PBSC	Performance Based Service Contracting
PCC	Post Construction Completion
PITB	Policy, Information and Training Branch
PM	Performance Measure
PO	Project Officer
PPL	PeoplePlus
PPMD	Project Planning and Management Division
PRP	Potentially Responsible Party
QIC	Quality and Information Council
RA	Remedial Action
RAC	Remedial Action Contract
RCO	Regional Contracting Officer
RCRA	Resource Conservation and Recovery Act
RI/FS	Remedial Investigation/Feasibility Study
ROD	Record of Decision
RPM	Remedial Project Manager
RSE	Remediation Systems Evaluation
SAM	Site Assessment Manager
SAS	Superfund Alternative Site
SBO	Small Business Ombudsman
SCAP	Superfund Comprehensive Accomplishment Plan
SPIM	Superfund Program Implementation Manual

SRO	Senior Resource Official
SRRPOD	Superfund RCRA Regional Procurement Operations Division
SSC	Superfund State Contract
SSL	Soil Screening Levels
START	Superfund Technical Assessment and Response Team
STSIB	State, Tribe, and Site Identification Branch
TIFSD	Technology Information Field Services Division
TSDF	Treatment, Storage and Disposal Facility
USACE	U.S. Army Corp of Engineers
USCG	U.S. Coast Guard
WAM	Work Assignment Manager

EXECUTIVE SUMMARY

In November 2003, Acting Deputy Administrator Stephen L. Johnson requested that a small work group be established to conduct a relatively quick internal review (approximately 120 days) of the Superfund Program. The main objective of this review was to identify opportunities for Program efficiencies that would enable the United States Environmental Protection Agency (EPA) to begin and ultimately complete more long-term cleanups, also known as remedial actions, with current resources. The Study was intended to complement the work done by the Superfund Subcommittee of the Agency's National Advisory Council for Environmental Policy and Technology (NACEPT).

EPA currently has a backlog of sites that are ready for long-term cleanup, but lack adequate funding to begin the remedial actions, (RAs). To a large extent, the shortfall is the direct result of the evolution and maturation of the Program, with the universe of Superfund sites expanding in both number and type. Larger, more complex sites requiring multiple remedies have increased demands on the Program; funding needs have increased further as a greater proportion of the sites have progressed through the remedial investigation and feasibility study phases; and the cleanup phase is typically more costly. A significant challenge before the Agency and Congress, therefore, is how best to navigate this period when there are high funding needs for more long-term cleanups.

About The 120-Day Study

The Superfund 120-Day Study was a short-term, overall Program review conducted by a team of EPA Headquarters and Regional staff who have knowledge and experience in the Program, but who are not all currently working in the Program. Information from Agency data systems helped to frame areas for analysis. This was followed by additional data requests and an extensive number of interviews with Superfund Program managers in Headquarters and the Regions, as well as with selected outside experts. To supplement the information gathered in the interviews, the Study team prepared and sent out tailored questionnaires to gather Program-specific information.

The Study compiled findings from these data-gathering efforts, and made recommendations designed to improve resource utilization to quickly direct more funding into the remedial action pipeline; other recommendations are intended to help the Program function better over the long term, which could reduce future out-year funding needs.

About the Action Plan

The directive to undertake the 120-Day Study included a mandate to develop an Action Plan outlining how EPA would carry out the Study's 108 recommendations. Each recommendation has a lead EPA office responsible for responding to that

recommendation; those offices developed a work plan that describes the action(s) they would take to implement that recommendation, or that provides a rationale for not proceeding with the recommendation.

This Action Plan compiles all of the Study's recommendations and office responses into one document. The Plan also provides background for why those recommendations were made. To make the large number of recommendations more manageable, EPA grouped them into five major categories: (1) Program Leadership; (2) Financial and Resource Management; (3) Contracts/Grants Management; (4) Leveraging All Available Cleanup Resources; and (5) Communication. Although the recommendations could have been organized in several different ways, EPA feels that these categories distinguish the major areas of EPA's Superfund operations that these recommendations apply to. These five categories are then divided into subcategories under which the applicable or relevant recommendations are grouped.

Key Areas that Meet the Study's Objective

While all of the Study's recommendations are designed to improve the management and effectiveness of the Superfund Program, several areas are key to meeting the Study's primary objective of channeling more funding into the RA pipeline. The following presents these key areas and associated recommendations by chapter. (The recommendations are also identified as 'key' in the individual chapters.) EPA will implement these key areas in coordination with the appropriate Lead Region.

Chapter 1, Program Leadership outlines senior leadership initiatives that will help direct more resources into RAs, and improve the effectiveness and efficiency of the Superfund Program. Key areas highlighted in this chapter include:

- Section 1.1, Program Direction—establishment of a Superfund Board of Directors, which will improve Program coordination, integration, and accountability (Recommendation 1); and

- Section 1.1, Program Direction—setting a hierarchy of Program goals and objectives to ensure Superfund resources are directed such that the Program achieves its most important goals (Recommendations 2 and 9).

Chapter 2, Financial and Resource Management looks at ways to improve financial and resource management processes that will help effectively forecast cleanup resource needs and ultimately make more money available for remedial actions. Key areas addressed include:

- Section 2.1, Budget Formulation and Planning—Options to increase available resources dedicated to remedial action (Recommendation 103).

- Section 2.2, Budget Execution—analyzing Superfund charging and increasing site-specific charging, which will strengthen cost recovery, reduce overhead, and reveal misallocations or adjustments that may be needed (Recommendations 66, 67, and 68);

- Section 2.3, Regional Resource Distribution/Management—ensuring the maximum number of Program personnel are working on site cleanups by addressing full-time equivalent (FTE) employee allocation at Headquarters and the Regions to reflect workload changes, which will set the groundwork for reallocation in the fiscal year (FY) 2007 budget process, and increasing work-sharing among the Regions (Recommendations 19 and 20);

- Section 2.4, Special Accounts Management—effectively managing and increasing the use of special accounts, which will help with the funding flow for remedial actions and can reduce the need for future cost recovery (Recommendations 15, 61, 62, 95, 96, and 97); and

- Section 2.5, Remedy and Response Cost Management—controlling site cleanup costs to enable funding of more cleanups, including enhancing the National Remedy Review Board's (NRRB) role (Recommendations 37 and 38); optimizing long-term response actions (LTRAs) (Recommendation 40); conducting construction oversight (Recommendation 44); and conducting benchmarking studies of Regional performance (Recommendations 18, 21, and 101).

Chapter 3, Contracts/Grants Management examines ways to more effectively manage cleanup funding provided through contracts, grants, and interagency grants (IAGs). Key areas addressed include:

- Section 3.1, Contracts & Grants/IAGs—increasing efforts to deobligate funds from contracts, grants, and IAGs to funnel more money into RAs, including establishing policies for the duration of these funding vehicles (Recommendations 72, 73, 75, 76, and 77); and

- Section 3.1, Contracts & Grants/IAGs—improving the monitoring of these funding mechanisms such that obligated dollars are used for their intended cleanups and not "banked" for future use (Recommendations 83, 84, 85, and 87).

Chapter 4, Leveraging All Available Cleanup Resources addresses opportunities for leveraging cleanup resources from potentially responsible parties (PRPs), the States, and other cleanup authorities, to maximize the use of limited Superfund Program funding. Key areas highlighted include:

- Section 4.1, PRP-lead Cleanups—maximizing PRP involvement and funding in cleanup efforts through effective negotiation and enforcement strategies for remedial investigation/feasibility studies (RI/FSs) (Recommendation 24); efficient

oversight (Recommendation 58); effective, early PRP searches (Recommendation 53); and increased removal enforcement (Recommendation 54); and

- Section 4.3, Other Cleanup Authorities—preventing some sites from entering the Superfund pipeline through the use of sufficient financial assurances at Resource Conservation and Recovery Act (RCRA) sites so that Trust Fund dollars are not needed for cleanups at these sites (Recommendations 10, 11, 12, and 36).

EPA Office Leads

As described, EPA has developed work plans describing planned actions in response to each of the Study's 108 recommendations, along with the lead EPA Office responsible for implementing the action. Of these actions, 39 describe work that was ongoing prior to the Study and that addresses the recommendation/option; 64 describe new work undertaken to address a recommendation/option; and 5 that provide a rationale for no planned action to implement a recommendation/option. For senior EPA management purposes only, a current anticipated completion date for each action has been identified. Generally, the scheduled completion dates are approximately:

- 50 actions are anticipated to be complete by the end of FY 2005;
- Less than 10 actions are left to be completed by the end of FY 2006; and
- Less than 10 actions are left to be completed during or after FY 2007.

Of the EPA lead offices (the information below reflects single- and joint-lead efforts):

- OSWER/Other is responsible for responding to 13 recommendations;
- OSWER/OSRTI is responsible for responding to 47 recommendations;
- OECA is responsible for responding to 16 recommendations;
- ORD is responsible for responding to 3 recommendations;
- OCFO is responsible for responding to 12 recommendations;
- OARM is responsible for responding to 15 recommendations; and
- Lead Region is responsible for responding to 7 recommendations.

The Superfund working group will track these actions and report completion of each planned action.

Moving Forward

The Study's authors felt that together, the Report's recommendations can build on past successes and create a better, more efficient way to implement the changing Superfund Program. The recommendations are intended to improve upon a Program that is working well, not one that is broken and requires fixing. These recommendations focus on what EPA can do with existing authorities and resources to effectively implement the Superfund Program, toward the goal of increasing the pace of site cleanup.

Chapter 1

PROGRAM LEADERSHIP

Introduction

This chapter includes Study recommendations that require action by the Superfund Program's senior leadership across Headquarter's offices and the Regions. Some of these recommendations have already been implemented, such as the creation of a Superfund Board of Directors and development of the Superfund Board of Director's Charter outlining the hierarchy of Program goals to help direct resources. The recommendations in this chapter represent the strategic decision-making and actions that are needed to help address the resource issues currently faced by the Superfund Program, and to make the Superfund Program more efficient.

The recommendations under Program Leadership fall into four subcategories: (1) Program Direction; (2) Program Policy and Guidance; (3) Performance Measurement/Accountability; and (4) Homeland Security/Nationally Significant Incidents.

1.1   PROGRAM DIRECTION

Background:

The recommendations in this section address senior leadership initiatives, such as setting clear goals and directing research efforts to more closely meet Program needs and to help focus activities in the Superfund Program. The success of the Program has been and continues to be dependent upon the partnership and collaboration of many of the Agency offices and all of the Regions. The recommendations below are intended to help strengthen this partnership and positively impact all offices that have Superfund responsibilities and resources.

The Study identified a need for greater overall Program coordination and integration of the efforts among the various offices (including the Regions) with Superfund responsibilities. With resources spread broadly across multiple EPA Headquarters offices and the Regions, efforts end up less focused and less mutually supportive than they could be because different parts of the organization see themselves as beholden to their own program areas, rather than as responsible for achieving overarching programmatic goals and mandates.

To address cross-office issues more effectively, the Study Team recommended the creation of an overarching internal Superfund Board of Directors to provide enhanced Program leadership, coordination, and accountability. In addition, with the growing complexity of the Program coupled with the tightening of resources, the Office of Solid Waste and Emergency Response (OSWER) needs to more clearly articulate the hierarchy of cleanup goals. The Study Team determined that senior leadership needs to more finely hone the Program's goals and more clearly articulate the relative priority among those goals.

Cost recovery is another critical Agency activity. Without this work, no funds spent by the Program for removal or remedial actions would be returned to the Trust Fund to defray the costs of future work. Senior leadership should affirm its commitment to cost recovery to emphasize its importance to the Superfund Program.

Finally, while OSWER and the Office of Research and Development (ORD) are undertaking efforts to improve the effectiveness of the Superfund research program (including addressing many of the observations and recommendations in the Study), and OSWER and the lead Region representatives felt there is an effective planning process in place at ORD, there are problems with incorporating Regional needs and a disconnect between the planning process and communicating results to Superfund practitioners. Although technical support requests are addressed in a timely manner, there are significant concerns about the utility of ORD's longer-term research program in supporting cleanup operations. Discussions indicated that longer-term Superfund research activities and priorities are not as clearly identified or as closely linked with the needs of Regional management as they could or should be, and there is a real need for better communication among ORD, OSWER, and Regional management.

Recommendations and Actions:

Key - **Recommendation 1: Create Superfund Board of Directors.** The Deputy Administrator should create a Superfund Board of Directors to improve Program coordination, integration, and accountability.

> **Action:** EPA established a Superfund Board of Directors in May 2004; the final Superfund Board of Director's Charter was distributed in June 2004. *(BOD – Completed)*

Key - **Recommendation 2: Develop Hierarchy of Program Goals.** Senior Program managers should evaluate the Program's current goals and objectives and clearly communicate the hierarchy among these goals to ensure that Superfund resources are properly directed to achieve the Agency's most important goals. **Recommendation 9: Adopt Shared Goals for Program Activities.** OSWER and the Office of Enforcement and Compliance Assurance (OECA) should consider adopting goals that cut across different Program activities (e.g., cleanup completions through use of any tool or combination of tools) to improve teamwork and gain full recognition for all work that produces similar outcomes.

> **Action:** A document entitled, "Superfund Cleanup in the 21st Century," dated December 8, 2004, which establishes these goals, has been developed and approved by the Superfund Board of Directors as of December 2004. *(Complete)*

Recommendation 59: Affirm Commitment to Cost Recovery. Senior management within EPA and the U.S. Department of Justice (DOJ) should affirm their commitment to cost recovery.

> **Action:** The Office of Site Remediation and Enforcement (OSRE) and DOJ will issue a joint memo reaffirming the importance of effective cost recovery in encouraging PRP-

lead responses, and in returning money to the Superfund Trust Fund where PRPs are recalcitrant or it is impracticable to get them to conduct response actions. *(OSRE)*

Recommendation 64: Senior Managers Meet about Superfund Research Program. The Assistant Administrators and/or Deputy Assistant Administrators for ORD and OSWER should meet with the Deputy Administrator no later than June 10, 2004, to discuss improvements both organizations intend to implement to improve the effectiveness of the Superfund research program. **Recommendation 63: Determine if Senior Managers' Actions are Effective.** ORD, OSWER, and the Regions should work together to survey Superfund managers and RPMs by June 2005 to discover if the actions taken above [see study pages 77-81 for "actions taken above"] have addressed the Regional concerns regarding input into the Agency's research agenda and the value and utility of long-term research.

> **Action:** These two recommendations are being addressed jointly. The overall goal of these actions is to ensure that research undertaken by ORD addresses the Program's highest priorities and that all levels of the Superfund Program Office better understand the applicability of ORD Superfund research. A number of actions are underway to address these recommendations. They include: establishing joint OSRTI/Regional subgroups to identify highest-priority research needs; surveying Regional managers and Remedial Project Managers (RPMs) to determine if coordination/communication efforts have been effective; and communicating ORD's approach to Superfund research needs to the Regions. In addition, the meeting identified as part of this recommendation took place prior to June 10, 2004. *(OSRTI and ORD)*

1.2   PROGRAM POLICY AND GUIDANCE

Background:

The recommendations in this section address policy and guidance that must be revisited, and possibly revised or reissued, and highlights Programmatic areas that would benefit from new policy or guidance. While some recommendations address broad Programmatic policy—such as developing guidance for the One Cleanup Program—others apply to specific aspects of the Superfund Program, such as the Superfund Alternative Site (SAS) option. All of the recommendations are designed to ensure EPA is issuing the most timely and relevant direction possible.

Similar to the recommendations in the "Program Direction" section, the Study suggested that OSWER step up its leadership efforts to bring the One Cleanup Program to fruition, noting that more aggressive targets need to be established and communicated to realize the Program's goals.

The Study also noted that policy and procedure revisions or clarifications could help free up monies for remedial action work or other priorities. For instance, "immediate, one-time opportunities" were identified to gain access to funding from IAGs, grants and contracts; Superfund State Contracts (SSCs); and special accounts that then could be re-distributed, helping with the current shortfall being experienced for funding long-term cleanups. As stated in the

Study, the key to success in reviewing funds for possible deobligations are leadership by one office, partnerships across all offices and Regions, and a clear definition of expectations for managing and tracking these funds. A lack of leadership, partnerships, and expectations may lead to increasing amounts of "unused" funding.

Further, the Study recommends that EPA update its national policy related to SSCs to correct slow collections from States, allowing the Agency to use more appropriated money sooner for remedial actions: the most recent guidance for SSCs, "Classic Two-Party Superfund State Contract (SSC) Model Clauses," was finalized in August 1990. This document primarily consists of model clauses for SSCs, and also includes guidance on such areas as cost sharing. Based on the varied interpretations among the Regions on SSCs and the age of the present guidance, OSWER should evaluate whether the document needs updating.

Other monetary benefits can be realized through the SAS approach. This approach reduces the need for EPA funding and saves time and energy otherwise required for site listing, while still promoting the cleanup of high-risk sites. However, the lack of uniform criteria and policy for SASs, and the lack of transparent site assessment and pre-scoring information, hinder the use and effectiveness of this approach. A national policy is needed to provide consistency across the Regions and to help promote use of the SAS approach.

Finally, the Study examined cost issues associated with use of the Removal Program, noting that current policy limits to $6 million the amount of funding spent on a site under the Removal Program. This restriction may limit the scope of what EPA can accomplish quickly and efficiently at a site. There is also a reporting and "credit" gap between the Removal and Remedial Programs; for instance, when a removal at a site on the National Priorities List (NPL) addresses longer-term remediation goals, it is reported as a removal, and the dollars spent are not counted toward the totals spent for remedial actions. EPA needs to consider how the significance of this removal work can be tracked and accounted for better.

Recommendations and Actions:

Recommendation 6: Develop One Cleanup Program Policies/Guidance. OSWER should promote the One Cleanup Program more aggressively and set more ambitious targets for policy and guidance development in order to continue to improve the coordination, speed, and effectiveness of cleanups.

      Action: Work is ongoing that meets the goal of this recommendation. *(OSWER)*

Recommendation 22: Update Deobligation Policies/Guidance. OSWER and OECA should review guidance and policies [related to deobligations with IAGs/grants/contracts, SSCs, and special accounts] to ensure that they are addressing the current and future needs, and follow up with the Regions on using the guidance and policies. For example, the guidance on Superfund State Contracts is 14 years old and may need to be revisited to improve the timeliness of receipt, obligation, and expenditure of funds.

Action: No action will be taken against this recommendation. OSRE has reviewed all of its policies related to financial management and has an established deobligation policy and extramural resource distribution policy in place that have been accepted by the Regions. OSRE will be evaluating the need for additional Guidance related to special accounts management under recommendation 61. *(OSRTI and OSRE)*

Recommendation 25: Revise SAS Policy. OSWER should revise the SAS policy to ensure that criteria for being a Superfund Alternative Site are uniform and that the Regions provide the PRPs and other interested parties with transparent site assessment and pre-scoring information.

Action: This action is complete. The revised SAS guidance, which was finalized in June 2004, clarifies the criteria that SAS sites must meet, and encourages Regions to discuss site designations with PRPs prior to the start of negotiations. *(OSRTI)*

Recommendation 32: Clarify Exemption Process. Since some sites have high risks but do not require an extensive study, OSWER should clarify the process for obtaining an exemption to the current dollar limit for cleanups under removals, or recirculate the current guidance. *Option 1:* To capture the benefits of Removal Program activities, OSWER should consider developing new ways of tracking and reporting removal actions. This would include work that (1) speeds cleanups at NPL sites and (2) completes cleanup of a site that typically would be listed on the NPL. *Option 2:* OSWER should explore adopting a consistent national approach that encourages Regions to ask States for a 10 percent cost share for non-time-critical removals to ensure buy-in from States on priority cleanups and to conserve federal resources for use at other high-priority sites in the Region.

Action: OSRTI and the Office of Emergency Management (OEM) will clarify the process for obtaining an exemption to the current funding limit for cleanups under removals. *(OSRTI and OEM)*

Recommendation 89: Update State Cost Share and Related Policies/Guidance. OSWER should evaluate and update, if necessary, national policy on State cost share, payment policy and refund policy. If this guidance does not need to be updated, the 1990 guidance should be recirculated.

Action: The current process used by EPA to revise Subpart O provided an opportunity to review the functioning of the cost share policy, payment policy, and refund policy. In addition, funding constraints have prompted the Regions and Headquarters to re-examine current practices to apply excess funds to other sites or deobligate such funds for use in other States and Regions, and avoid "parking" funds with the States for use in future cleanups. *(OSRTI)*

Recommendation/Option 104: Establish National Standards and Action Levels. *Option:* Headquarters and the Regions should identify the five or ten contaminants most commonly encountered in soil and sediment at sites across the country in order to conserve resources and

utilize the experience and risk information developed since the inception of the Superfund Program.

> **Action:** OSRTI agrees with the larger goal of promoting consistency from site-to-site and Region-to-Region with respect to both cleanup levels and action levels, and has developed several tools and policies to promote such consistency to the extent that it is advisable. However, one set of cleanup levels and one set of action levels applicable to all Superfund sites cannot be developed for several reasons. CERCLA cleanups must meet applicable or relevant and appropriate requirements (ARARs), or demonstrate that a CERCLA waiver of an ARAR is appropriate for that particular site remedy. Some ARARs flow from State regulations, which would be ARARs in that State, but not other States. Furthermore, some Federal ARARs are ARARs only in some circumstances while not in others. Therefore, cleanup levels which are based upon ARARs would not be cleanup levels for those sites where the requirement is not an ARAR. *(OSRTI)*

1.3   PERFORMANCE MEASUREMENT/ACCOUNTABILITY

Background:

EPA uses both internal and external performance measures pursuant to the Government Performance and Results Act (GPRA) to document and evaluate the Superfund Program's progress and accomplishments, and to foster accountability. The Study reviewed these performance measures, and recommended specific areas for additional review and improvement, as well as areas where additional measures could be used to enhance the Program's performance.

Some of the new performance measures the Study recommended be developed are tied to higher-level leadership initiatives also suggested by the Study. For instance, following the recommendations that EPA clearly articulate a hierarchy of goals for the Superfund Program, and more aggressively promote the One Cleanup Program, the Agency should develop performance measures that are consistent with the newly prioritized goals and that encourage cleanup approaches to complement one another, respectively.

Some of the recommendations in this section address Regional performance. The Study suggested the need for Regionally-specific efficiency measures and enforcement measures to provide an accurate picture of successes and areas that need improvement in each Region, as opposed to the national targets that are the current focus of performance measures. As to the efficiency measures, the Program received funding from the Office of the Chief Financial Officer/Office of Policy, Economics and Innovation (OCFO/OPEI) Measures Development competition to identify potential efficiency measures, including long-term, annual, and Program management efficiency measures. A national efficiency measure for site specific charging has been adopted. After researching this issue on the Regional level, it was concluded that there should not be a definitive Regional percentage or goal for Superfund site charging. Please refer to Section 2.2.

Supporting the Study's objective of finding ways to get more money in the RA pipeline to help fund long-term cleanup efforts, the Study recommends new performance measures related to collecting funds under SSCs. These measures would support efforts to correct slow collections from States, and help correct the variations in how Regions manage SSCs. Developing new performance measures related to special accounts and cost recovery would also support the efficient flow of funding through the Program, making more funding available more quickly to address Program priorities.

Finally, the Study addresses the Program offices' "Superfund Performance Measures," those measures "relevant, for the most part, to achieving the goals of the Superfund Program." The Study looks at ways to improve upon those measures. For instance, the Study notes that as the objectives of ORD's Superfund research program are to reduce the cost of cleaning up Superfund sites; improve the efficiency of characterizing and remediating sites; and reduce the scientific uncertainties for improved decision making at Superfund sites, ORD could build upon these objectives and possibly develop results-oriented or even outcome-oriented measures. Specific examples given include setting a target of $X in cleanup cost savings per year as a result of ORD's technical support, or applying a measure showing the reduced time and costs required to characterize or remediate sites as a result of implementing models or methodologies developed by ORD. OSWER could develop similar outcome-oriented measures for its technology innovation activities.

Recommendations and Actions:

Recommendation 3: Develop Performance Measures (PMs) Related to Hierarchy of Goals. OSWER and the lead Region should spearhead an effort to develop performance measures that are consistent with the newly articulated hierarchy of [Program] goals [related to Recommendation 2, wherein senior leadership would hone the Superfund Program's goals, more clearly articulate the relative priority among these goals, and allocate resources accordingly]. For example, if the Agency decides to count cleanups, no matter what the source, the performance measure should include NPL construction completions, Superfund Alternative Site completions, removal actions that complete all of the work at an NPL site, and voluntary cleanups.

> **Action:** A work group is being assembled that will consider the hierarchy of the goals identified through Recommendation 2, and the range of performance measures across the Superfund Program to track progress toward these goals. *(OSWER)*

Recommendation 7: Establish One Cleanup Program PMs. OSWER and OECA should build upon their work to improve and strengthen performance measurement by establishing measures that encourage the various cleanup approaches to complement each other.

> **Action:** No additional action will be taken against this recommendation as OECA/OSRE performance measures already include non-NPL/SAS sites. *(OSRTI)*

Recommendation 8: National Program Managers (NPMs) adopt PMs. All NPMs with Superfund resources should adopt and track a manageable number of meaningful performance measures and ensure data systems are in place to facilitate timely and accurate reporting.

> **Action:** OSWER and the Budget, Planning, and Evaluation Branch (BPEB) of OSRTI will: (1) assemble a group of NPM representatives to evaluate the recommendation's feasibility and scope and choose issues for resolution; (2) prepare a white paper that outlines the steps needed to adopt (if necessary) and track performance measures and ensure the quality of data systems; (3) obtain senior management approval for any new measures or data coordination; and (4) prepare guidance outlining procedures for coordinating and tracking performance measures and ensuring data accuracy. *(OSWER and OSRTI)*

Recommendation 57: Evaluate Enforcement PMs; Adopt Site-Specific PMs. To improve individual regional performance, OECA and the lead Region should evaluate current enforcement measures and develop additional regional site-specific measures that provide a more accurate picture of the Program's success and provide an incentive to improve performance.

> **Action:** OSRE discussed this issue with the Regions during the Cost Recovery Conference in FY 2004. It has been determined that working in conjunction with a work group conducting the management review under Recommendation 54, performance measures that address the "Enforcement First" policy at removal sites will be developed. In addition, a work group will be established to review the existing cost recovery GPRA performance measure and the existing return on investment program measure; write a summary of recommendations for the new cost recovery performance measures and return on investment program measures; and develop all necessary data element codes and definitions of accomplishment data for the new performance measure for CERCLIS tracking. *(OECA)*

Recommendation 91: Establish SSC PMs. OSWER and the Regions should work together to establish performance measures for SSCs, which could address the timeliness of collecting funds and returning excess funds to States.

> **Action:** Providing State cost share is a statutory requirement. The SSC is the vehicle for implementing this action. EPA will not be establishing performance measures for SSCs, but instead will address the main issue raised in the report, which is States maintaining their commitment to pay for cost share under these tight budget situations. Long-term, this will be addressed under EPA's Superfund Post Construction Completion (PCC) Strategy for NPL sites. The PCC Strategy is a cohesive management framework of initiatives that is expected to provide greater assurance that Superfund remedies remain protective over the long term, to help States develop the capacity to assure Superfund State Cost Share, operations and maintenance (O&M), and methods to creatively finance both. The Agency expects to undertake the projects outlined in this strategy over the next five years. *(OSRTI)*

Recommendation 100: Revise Superfund PMs. ORD should continue their internal review and revise, where appropriate, their Superfund performance measures to become more Program results-oriented. Similarly, OSWER should examine the feasibility of developing outcome-oriented performance measures for its technology innovation activities.

> **Action:** ORD will undertake a number of activities over the next year to ensure that its research reflects OSWER's highest-priority need, and that its performance becomes more results-oriented. These activities include: merging existing plans; conducting a progress review for OSWER; preparing for the Office of Management and Budget's (OMB) Performance Assessment Rating Tool (PART); and responding to recommendations. *(ORD)*

Recommendation 102: Adopt New Superfund PMs. EPA's management and support offices should meet with their Superfund response and enforcement clients to review current measures and possibly establish new performance measures specific to the Superfund Program, such as on special accounts and cost recovery in order to increase the Superfund Program's integration and efficiency.

> **Action:** The Regions perform an annual reconciliation of special accounts data and report on the use of special accounts by States. Headquarters collects data through CERCLIS and quarterly reporting. There are currently five performance measures. OECA will determine if additional performance measures governing the use of special accounts are necessary. *(OECA)*

1.4 HOMELAND SECURITY/NATIONALLY SIGNIFICANT INCIDENTS

Background:

Much of the same workforce that responds to emergencies and oil spills and conducts time-critical and non-time-critical removals also supports important homeland security responsibilities. Some of the interviewees stated that On-Scene Coordinators (OSCs) are being pressed into action for Homeland Security preparedness and response activities, taking time away from classic emergency response and removal activities. The affected Regions also noted that when multiple events of national significance occur, the Removal Program in the affected Region virtually shuts down. In addition, there is an impact on the Removal Program nationwide as supporting Regions send OSCs to assist in staffing the events.

During this same time, five additional staff positions were given to each Region to compensate for the increased homeland security workload. While large national incidents have virtually depleted some Regions of their staff, much of the actual costs of the incidents have been reimbursed. (The costs of responding to the World Trade Center attacks, the Capitol anthrax problem, and the space shuttle *Columbia* disaster were all reimbursed). In recognition of this depletion of staff at the time of an event, the Regions have begun to develop a response corps that draws on the expertise in other programs (e.g., RPMs, RCRA corrective action staff, and

drinking water staff). Although contract money and additional staff have been provided to the Superfund Program for homeland security, the Regions have stated that they have not been funded adequately for the training, equipment, and travel needed for the response capability expected of the Agency as specified in the Federal Response Plan. EPA has to prepare for its expanding role in preparedness for counterterrorism response and homeland security through activities such as development of Continuity of Operation Plans and continuity of government functions.

Recommendations and Actions:

Recommendation 33: Address Homeland Security FTE Funding. The Agency needs to find a permanent fix for the high-priority funding needed for the 50 homeland security FTE that the Regions were required to hire.

> **Action:** This recommendation will be considered in the FY 2006 budget process. *(OSWER/OEM and OCFO)*

Recommendation 34: Determine Additional Nationally Significant Incident Funding/Staff Needs. As part of the next budget process, the Agency should evaluate whether, above and beyond the initial FTE, the Agency needs more dollars and FTE to address preparation for nationally significant incidents.

> **Action:** This recommendation will be considered in the FY 2006 budget process. *(OSWER/OEM and OCFO)*

Recommendation 35: Cross-Train Managers for Nationally Significant Incidents. Building upon the development of the Regional Response Teams, OSWER and the Regions should support more cross training among OSCs, RPMs, and Site Assessment Managers (SAMs) to support removal efforts while OSCs are addressing nationally significant incidents.

> **Action:** Several initiatives are underway to help address workload involved in managing incidents of national significance. Advanced Incident Command System (ICS) training and Incident Management Team (IMT) training will be provided to all Regions by December 2004. Initial training has been provided to the Response Support Corps for all Regions during FY 2004. In addition, the Program has ongoing work addressing issues of being prepared for multiple large-scale incidents. *(OEM)*

Chapter 2

FINANCIAL AND RESOURCE MANAGEMENT

Introduction

The recommendations in this chapter address the estimating, budget planning, resource distribution, and execution of Superfund resources in order to effectively forecast Superfund cleanup resource needs. The Study suggested areas where more effective cost estimating, planning, distribution, and utilization of Superfund resources would make more resources directly available for site cleanup.

The recommendations under Effective Financial/Resource Management fall into five subcategories: (1) Budget Formulation and Planning; (2) Budget Execution; (3) Regional Resource Distribution/Management; (4) Special Accounts Management; and (5) Remedy and Response Cost Management.

2.1 BUDGET FORMULATION AND PLANNING

Background:

As part of its internal budget allocation process, EPA set up distinctions and definitions for Superfund dollars, which are used today by Congress and OMB. These definitions have become self-imposed limitations, resulting in unnecessary internal transaction costs when money needs to be moved around or funds "transformed" for different uses.

Recommendations and Actions:

Recommendation 14: Simplify the Budget. OSWER and the Regions, in coordination with OCFO, should identify ways to simplify the internal budget structure so that funds can be used as efficiently as possible.

> **Action:** No action will be taken to implement this recommendation for FYs 2005 or 2006. The Agency does not believe that the current budget structure constrains the efficient use of Superfund resources. OSRTI, OSRE, and OCFO will discuss the value of developing options for budget simplification for possible implementation in the FY 2007 budget process. *(OSRTI and OCFO)*

Recommendation 28: Plan Early for Mega-sites. OSWER and the Regions should establish a process for national review of the scope of potential mega-sites at the time of listing to ensure that sites are properly characterized as early as possible and out-year funding needs are accurately forecast as part of the development of the President's budget.

Action: Because this is an ongoing activity, no additional action will be taken against this recommendation. The OSRTI national NPL Tiering Panel currently identifies potential mega-sites for use in the Assistant Administrator's (AA) OSWER-proposed NPL briefings. When a site is presented to the NPL Tiering Panel, the Region is specifically asked whether the site has the potential to be a mega-site. *(OSRTI)*

Recommendation 52: Transfer PRP oversight to OECA. For budget planning and execution purposes the study recommends that OECA return to a common-sense definition that includes oversight of PRP actions as an enforcement activity which will improve FTE utilization.

Action: OSRE plans to take no action on recommendation 52 as it was based on the erroneous assumption that the current lapse of FTE in the Enforcement Program is due to that fact that removal and RI/FS oversight responsibilities were transferred from OECA to OSWER in the mid-1990s without the commensurate transfer of resources/FTE. However, in a memo dated December 14, 1994, 105.6 FTE and $22,971,000 were transferred from OECA to OSWER to cover this transferred function. Thus, transfer of this function back to OECA without the commensurate redirection of resources would not resolve the issue identified in the report. *(OECA)*

Key **- Recommendation/Option 103: Reduce Costs to Meet Numerical Targets**. *Option 1:* Pro-rata cut – The Agency should execute an across-the-board, pro-rata cut based on an estimated need for remedial action funding, and should make exceptions only on an extremely limited basis. *Option 2:* Targeted Cut – The Agency should mandate specified numerical reductions, but target the reductions by amount and organization. *Option 3:* Hybrid Approach – The Agency should set numerical targets in a tiered structure to achieve a hybrid of Option 1 and 2. *Option 4:* No Initial Cuts – The Agency should make no cuts initially until it has implemented some of the Programmatic and management recommendations.

Action: The Agency has decided to implement Option 4 in the FY 2006 budget process. *(OSWER, OECA, and OCFO)*

Recommendation/Option 106: Implement One Allocation for all Response Activities to the Regions. To maximize resources for multi-year plans and provide incentives for cost efficiencies during implementation, OSWER should consider funding the Regions one allocation for all response activities

Action: No action will be taken against this recommendation. The Program will continue with the current process in order to ensure efficient allocation of Program resources. *(OSRTI)*

Recommendation/Option 107: Transfer Management and Support to the Environmental Programs and Management (EPM) Appropriations. *Option:* EPA could begin work on developing a long-term plan for transferring Superfund management and support costs to the EPM appropriation.

Action: No action will be taken against this recommendation. After investigating the possibility of implementing this plan, OCFO determined that the option is not feasible. *(OCFO)*

Recommendation/Option 108: Return Deobligated Dollars to the Regions. OSWER, working with the Regions, should revise the deobligation policy to increase the ratio of deobligated dollars returned to the Regions (e.g., to 50/50) with the proviso that a high percentage of the funds be directed to remedial action or removals at NPL sites.

> **Action:** No action will be taken against this recommendation. The Program will continue with the current policy of returning 25 percent of deobligated dollars for Regional funding needs. *(OSRTI)*

2.2   BUDGET EXECUTION

Background:

The Regions perform many activities that are charged site-specifically. Consistent and accurate site-specific charging strengthens the Program's cost recovery by ensuring that PRPs pay their appropriate share of site cleanup costs. It also helps EPA demonstrate to Congress and the public that the Agency is using its Superfund funding to conduct site-specific work, as opposed to costs that cannot be allocated to specific Superfund sites, such as research. Within EPA, increasing site-specific charging will reduce overhead by properly accounting for hours and will reveal resource misallocations or adjustments that may be needed**.**

Recommendations and Actions:

Key **- Recommendation 21: Deobligate FY 2004 Funds.** EPA Regions and Headquarters should establish a schedule for FY 2004 deobligations and initiate actions immediately so the funds will be available during this fiscal year.

> **Action:** The work suggested by this recommendation is being implemented. The Program continuously evaluates all Superfund resources that might be available for deobligation in State contracts, special accounts, interagency agreements, and expired contracts. Deobligations are made and allocated to new start RA projects. $67 million has been targeted for deobligation in 2005. *(OSRTI)*

Key **- Recommendation 66: Analyze Superfund Charging.** OCFO should analyze the Superfund charging across the Agency to ensure the use of approved methodologies and gain a better understanding of the variations.

> **Actions:** All Program Managers who use Superfund Layoff methodologies will be asked to resubmit their methodology to OFM for review. A phased approach could be taken to

ease the workload burden of this undertaking, with a goal of completing such a task over the next year. *(OCFO/OFM)*

<u>*Key*</u> **- Recommendation 67: Set a Site-Specific Charging Goal.** OECA should set a site-specific charging goal (e.g., XX percent) tailored for each Region. To ensure progress toward that goal, OECA should ask the Regions to submit three-year implementation plans and establish a system to track the performance of those plans.

> **Action:** OECA, OSWER, and OCFO have concluded that there should not be a definitive Region-specific percentage or goal for Superfund site charging because of numerous varying factors, i.e., holidays, training, non site-specific projects, etc. The National effort concluded that we should not set a site-specific charging for each Region, but instead ensure full compliance with site-specific charging when working on a matter related to a specific Superfund site.
>
> A national efficiency measure for site-specific charging has been adopted. After researching this issue on the Regional level, it was concluded there should not be a definitive Regional percentage or goal for Superfund site charging because of number of varying factors such as holidays, training, non-site-specific projects, etc. *(OECA)*

<u>*Key*</u> **- Recommendation 68: Support Site-Specific Charging.** Key Program Offices (OCFO, OECA, and OSWER) should review the new payroll system to determine if there are opportunities to make site-specific charging easier and more user-friendly.

> **Action:** The new PeoplePlus (PPL) payroll system has gone live. Prior to this occurring, a work group was established to identify problem areas with the system. The group was able to get a number of issues addressed, but they are still working on getting other issues resolved. Ultimately, PPL will make site-specific charging easier by showing account codes/descriptions on the screen; displaying a user-defined description of account codes, if a description exists; making dates more visible on the screen; and reducing keystrokes. *(OCFO)*

2.3   REGIONAL RESOURCE DISTRIBUTION/MANAGEMENT

I. Sharing Regional FTEs and Resources across Regions

<u>Background</u>:

Nationally, the Superfund Program has the skills and resources that have resulted in cleaning up almost 900 NPL sites and conducting more than 7,000 removal actions. However, since the FTE distribution by Region has remained relatively unchanged since the early 1990s, some Regions have been able to complete more of their Superfund workload than other Regions. For example, the Emergency Response Program has been more focused nationally since September 11, 2001, with emergency response assets in each Region strategically aligned to help respond to larger-

scale emergencies in other Regions. Post-construction work has also grown significantly as more and more sites reach construction completion.

Certain Regions clearly have developed strong Programmatic capabilities in certain key areas (e.g., PRP searches and contracting) relative to other Regions. In some instances, one Region has a strong capability, but over time forecasts a decreasing need for that capability, while another Region has that same need but has fewer FTE to do the work.

In addition, with the number of sites moving from RI/FS and design to construction, and in light of funding constraints, some managers believe more activities should be accomplished by RPMs and other staff in the Regions, rather than by contractors. In some Regions, the Superfund Program appears to have grown used to relying heavily upon contractors or other federal agencies. One issue that was raised in talking to the Regions is that when similar work is done under RCRA or in the EPA Water Program, more of the work is performed in-house. Increased direct oversight of response activities by RPMs also can strengthen the RPMs' technical and managerial skills.

Recommendations and Actions:

Recommendations 16, 17, and 47: Share Work Across Regions. All NPMs with Superfund resources should evaluate and pursue opportunities for greater resource or work sharing among Regions (Rec. 16). The lead Region should facilitate a process that takes advantage of capabilities already developed and demonstrated in areas of Programmatic specialization by encouraging Regions with needs in these areas to obtain support from the Regions with the capability and capacity to take on more work (Rec.17). The Regions should evaluate options for completing all work at each site, making the fullest appropriate use of in-house capabilities, to maximize the use of contract dollars and resources and to support staff professional development (Rec. 47).

> **Action:** These recommendations are considered to be a priority. The Regions are interested in sharing expertise with each other; however, it is not clear if the Regions have the available or excess capacity to share their expertise or specialization (e.g., detail assignment of a staff person to work in another Region or to provide training to another Region). These recommendations were discussed at the July and November 2004 Division Directors' meetings. By the third quarter, FY 2005, the Regions will select one or two pilots to test the viability of sharing work across the Regions, and by the fourth quarter the Regions will implement best practices, as appropriate. The Regions suggested that Recommendation 47 be considered a sub-set of Recommendation 17, where Regions with certain expertise and available capacity be tapped to help out other Regions that are in need of assistance. *(Lead Region)*

Recommendation 31: Adopt Best Practice Approach. OSWER should encourage more Regions to adopt the best practice (or "one list") approach to help ensure that the collective resources of EPA and the States are being utilized to achieve the greatest benefits.

Action: No specific actions are planned for this recommendation. The One Cleanup Program Site Assessment Task Force held one conference call. STSIB and others will continue to highlight related regional activities, such as Region 3's Unified Phase Assessment and Region 4's 'Front Door' approach, at the applicable meetings. *(OSRTI)*

Recommendation 50: Contract Laboratory Program (CLP) and Environmental Services Assistance Team (ESAT) Resources. OSWER and the Regions need to have a national dialogue to pursue flexibility between resources allocated between CLP and ESAT contracts to encourage greater cost effectiveness.

Action: Thus far, national dialogue has included three Field and Analytical Services Teaming Advisory Committee (FASTAC) conference calls and a face-to-face meeting in Summer 2004. In addition, on November 17, 2004, Superfund Division Directors (DDs) were briefed on a range of related issues, including options for addressing potential FY 2005 funding shortfalls to CLP and ESAT. The Regional Lab Directors discussed these same issues in December. These discussions also considered the challenges for the Program in better managing spending via the Remedial Action Contract (RAC), the Superfund Technical Assessment and Response Team (START), and other Tier 4 contracts. A small group comprising senior managers is being formed to follow up on the funding issues raised at the DDs' meeting. This group will include and/or inform members of the FASTAC Directive implementation work group. *(OSRTI)*

Recommendation 51: Forecast Long-Term Analytical Needs. The Superfund Division Directors and the Regional laboratories should forecast the long-term analytical needs for the Program, and should investigate whether the Centers of Applied Science approach would be appropriate for the Program. Wherever possible, they should encourage the sharing of expertise and equipment purchases among Regions.

Action: No additional action will be taken against this recommendation. In July, August, and September 2004, FASTAC discussed this concept during three conference calls and in a face-to-face meeting. At the August meeting, FASTAC generated ideas that were designed to contribute to a Regional Lab Directors' discussion on this topic in October. The Lab Directors did meet in October to discuss the concept. As a result, they plan to respond with recommendations that should increase the effectiveness and efficiency of the labs. However, it should be noted that while "sharing" across the Regions has occurred in the past, and is expected to occur in the future, in general, both FASTAC and the Lab Directors believe that this is not likely to be practical on a large scale. *(OSRTI)*

Recommendation 60: Improve Tracking and Cost Recovery. To improve the tracking and recovery of removal costs, Regions that have not invested in field administrative specialists should develop this expertise, or find other ways to accomplish the same goal.

Action: This recommendation is being implemented in Regions, as appropriate. No additional action will be taken on this recommendation. *(Lead Region)*

II. Evaluating FTE Allocation

Background:

Overall FTE allocation among the Regions must be revisited more fundamentally. In the early 1990s, the Agency chose to no longer redistribute staff positions across the Regions on an annual basis, effectively "freezing" the number of positions each Region receives. Therefore, baseline FTE allocation has not been adjusted even though workloads have changed. A strong perception—at the very least—remains that some Regions continue to reap a windfall from this "frozen" FTE allocation. The Agency has begun to develop workforce strategies that will assist every organization with evaluating its current workforce's skills and abilities and with planning for the Superfund Program's short- and long-term needs.

By design, the Regions conduct the bulk of the Superfund Program's work. When Superfund was in its infancy, it was appropriate for Regional implementation to be supported and guided by a strong, centralized programmatic policy and oversight apparatus. Although Headquarters offices have reduced staffing levels in recent years, the question arises as to whether the current level of Headquarters staffing and skill mix is appropriate, now that the Program has matured.

Recommendations and Actions:

Key - Recommendations 19 and 20: Prepare for FY 2007 Staff Redistribution and Direct Headquarters Resources to Cleanup. The Agency should execute other smaller-scale adjustments as appropriate, and begin setting the stage now for redistributing staff positions in FY 2007, after the consolidations, specializations, and results of benchmarking have been reviewed and incorporated (Rec. 19). The Agency should evaluate Headquarters Superfund FTE and make every effort to redirect resources to activities that more directly contribute to site cleanups (Rec. 20).

> **Action:** The Agency will be undertaking a workforce analysis to guide future allocation of FTE resources. *(OCFO)*

III. Pursuing the Superfund Alternative Sites Approach

Background:

Under the SAS approach, EPA oversees PRP response actions at sites that are eligible for NPL listing but are not listed. The benefits of this approach are prompt cleanup of high-risk sites, reduced need for EPA funding, and savings in time and energy otherwise required for site listing. Nevertheless, EPA still expends resources for oversight and, in many cases, for some of the site characterization. Such use of resources may take assets from NPL cleanups in the Region or elsewhere in the country. Moreover, because the Alternative Sites have not been subjected to any national priority ranking process, EPA has not demonstrated clearly the appropriateness of addressing Alternative Sites relative to funding work at existing NPL sites.

Currently, Regions vary in their use of SASs. Some promote the approach strongly, while others view it cautiously or find it too confining to be worth pursuing. PRP groups support some sort of alternative to the NPL, but because the current SAS approach closely mirrors the National Contingency Plan (NCP) process with little perceived benefit to them, they do not support it enthusiastically. Among the criticisms heard during interviews were a lack of transparency on site assessment and information on pre-scoring, and inconsistency among Regions, leading some interviewees to characterize the approach as being subject to abuse. From their perspective, at least an NPL site goes through rigorous quality control and due process before listing. Many believe that clearer expectations and criteria should be established nationally for Superfund Alternative Sites.

Recommendation 26: Prioritize Superfund Alternative Sites. The Regions should establish and implement a process by which SASs are prioritized along with their NPL sites to ensure that response funds are being spent on the sites with the highest risk.

> **Action:** OSRTI recommends that no additional action be taken against this recommendation in favor of existing Regional decision processes. Many Regions have created Regional Decision Teams (or similar mechanisms) to look at all sites and determine the best disposition for each (e.g., federal, State, other cleanup program). *(OSRTI)*

2.4   SPECIAL ACCOUNTS MANAGEMENT

Background:

As important as it is to strengthen and maintain cost recovery programs across the country, it should be an even higher priority to take advantage of opportunities to reduce the need for future cost recovery actions and to focus cost recovery efforts where they are most needed. Establishing and effectively using special accounts is one such opportunity. The Regions have done an excellent job of negotiating with PRPs to include special account provisions in consent decrees. A few Regions have established special accounts for nearly every settlement they reached in the last year. Settlements establishing special accounts have collected $1.1 billion to pay for future response actions and have generated an additional $177 million in interest.

However, when it comes to using the money in special accounts, there appears to be a fairly significant variability in the Regions' understanding of appropriate uses and the potential benefits. For example, one Region was surprised to learn that special account funds could be used to pay site-related Agency payroll expenses.

Recommendations and Actions:

Key **- Recommendation 15: Allocate Special Account/State Cost Share Funding.** OSWER and OECA should include special account and State cost share as they allocate funds internally and communicate funding availability.

> **Action:** OSRTI is currently looking at special accounts, SSC balances, and every other possible source of funding when negotiates with the Regions and when resources are allocated to the Regions. This is an ongoing activity and part of the yearly work planning and allocation process. The FY 2005 Work Planning memo to the Regions will emphasize the use of special accounts for site cleanup. OSWER and OECA will send a memo to the Regions explaining the incorporation into the annual allocation process. *(OSRTI)*

Key **- Recommendation 61: Update Special Accounts Guidance.** OECA and the Regions should discuss the current special account guidance to determine if additional clarification is necessary to maximize the use of special account dollars.

> **Action:** Following a Regional call with special accounts contacts in June 2004, and discussions at the Cost Recovery Conference in August 2004, OSRE will meet with OCFO to determine the need for additional special accounts guidance. A Special Account Management memo will be drafted and finalized to address any outstanding issues. *(OECA)*

Key **- Recommendations 62 & 96: Report on Special Accounts.** Regions should track, and periodically report to Headquarters, how much special account money they are using annually and how they are using it (Rec. 62). OECA and OCFO should design reports that clearly describe the use and status of special accounts, and provide them to managers in the Regions and Headquarters on a regular basis (Rec. 96).

> **Action:** A Special Account Tracking System already exists that provides information on the use of special accounts, including site-specific amounts deposited, disbursed, obligated, and still available; these reports are updated quarterly. This system has been recently updated to provide additional reporting capability (e.g., it now can provide the cleanup status for each site with a special account). OSRE/OCFO/OSRTI will a develop a site-specific template where Regions can identify the activities that the special account has been used to fund in the past, as well as plans for using the special account in the future. *(OECA)*

Key **- Recommendation 95: Develop Special Account Fact Sheets.** OCFO should develop fact sheets on setting up special accounts, utilizing special account dollars, and closing out the accounts.

Action: OSRE and OCFO will draft, review, and comment on fact sheets. OSRE will have the lead on fact sheets concerning policy/guidance, while OCFO will have the lead on financial issues. *(OECA/OCFO)*

<u>*Key*</u> **- Recommendation 97: Use Old Special Account Funds.** OECA should identify the oldest special accounts and then meet with the Regions to discuss uses of those dollars and progress towards using them.

Action: As part of Recommendations 62 and 96, OSRE will develop a site-specific template to identify the activities that the special account has already been used to fund, as well as plans for future use of the special account. Once the template is designed, priority will be provided to performing the analysis on the oldest special accounts. *(OECA)*

2.5   REMEDY AND RESPONSE COST MANAGEMENT

I. Integrating Site Assessment Programs

<u>Background</u>:

With the creation and rapid growth of EPA and State Brownfields Programs, issues have been raised about whether the Superfund Site Assessment Program warrants changes. Is there still a need for the number of NPL listing-oriented assessments that are being conducted, given the Site Assessment Program under the Brownfields Program? Could the two Site Assessment Programs work together in a more complementary way to enhance program effectiveness and reduce costs? If so, how?

Another area where better integration would be beneficial is prior to NPL listing. When RI/FS work and "enforcement first" activities can proceed prior to NPL listing, the Agency can make progress at sites much more quickly. For example, data gathering that is planned and conducted with a view not simply to listing the site but also to selecting a remedy represents a more efficient use of resources. To the extent the Program gathers more of the necessary data the first time, it can speed up work on the site and address site risks or other community concerns. The art lies in discerning likely NPL sites early enough in the pre-remedial stage to judge where to invest the additional resources sooner than would be typical. In an effort to do this, some

Regions use a team approach for certain sites so that SAMs and RPMs develop the data they need concurrently. In other Regions, the States do all of the site assessments and have integrated voluntary and traditional site assessment programs.

<u>**Recommendations and Actions**</u>:

Recommendation 29: Review Brownfields/Superfund Site Assessment Criteria. OSWER should examine its site assessment criteria to ensure that the Regions are integrating the Brownfields site assessment objectives into the Superfund site assessment process in order to capitalize on potential Programmatic efficiencies and resource savings. The Regions should continue to coordinate grant funding for site assessment work under the Brownfields Program and State programs.

> **Action:** Because this work is ongoing, no additional action will be taken against this recommendation. Superfund site assessment and Brownfields site assessment are two completely different programs, budgets, and statutes. The Superfund and Brownfield Offices meet regularly to coordinate their respective activities. *(OSRTI and the Office of Brownfields Cleanup and Redevelopment [OBCR])*

Recommendation 30: Integrate Site Assessment and Remedial Activities. The Regions should continue to make a standard practice of integrating site assessment work more fully with early-stage remedial work to expedite remedial activities and save resources. At the Regional level, give greater support to the use of SAM/RPM teams in order to move targeted pre-NPL sites more quickly and appropriately into the remedial pipeline.

> **Action:** Integrated site assessments and expanded site assessments are now routine when appropriate. No additional action will be taken against this recommendation. *(Lead Region)*

II. *Examining the Role of the National Remedy Review Board and the Cost of Site Work*

<u>**Background**</u>:

The selection of high-dollar remedies led to the formation of the National Remedy Review Board (NRRB). While the NRRB has reduced the cost of newly selected remedies, interviewees believe greater savings could be achieved if the NRRB reviewed a broader universe of sites and site remedies. In addition, after remedies are selected (with or without NRRB review), selected remedies are not revisited to monitor the success and cost of their implementation. Sites that are reviewed by the NRRB are not analyzed with an eye as to whether the remedy is being implemented in the most cost-effective manner. Both OSWER and the Study Team examined the role of the NRRB and both groups reached similar conclusions.

A mid-process review of costs can optimize LTRAs and thus reduce costs. The initial Pump-and-Treat "Optimization Reviews" have been well received by both EPA and the States, and there appears to be value in expanding the expectation for these project reviews. Lessons learned in one Region or at one site need to be shared across the nation so that the same benefits can be realized across the Program as quickly as possible.

The NRRB serves in an advisory nature to the Regions, per the charter, and submits recommendations for consideration. These recommendations are often incorporated into the remedy, but are at the discretion of the Regions. Comments were received that suggested there should be consultation with OSWER when a Region deviates from the Board's recommendations.

Recommendations and Actions:

Key **- Recommendations 37 & 38: Enhance NRRB's Role.** The NRRB's work has resulted in reduced costs for selected remedies. OSWER should re-evaluate the criteria for identifying sites for scrutiny by the NRRB, with an eye toward expanding the number of sites undergoing review. One approach for expanding the number of sites may be to lower the estimated remedy cost threshold, while another may be to look at factors beyond a cost threshold, perhaps to include technology types, site uniqueness factors, or issues of national significance (Rec. 37). In addition, the Charter of the Board regarding accountability for implementing its recommendations made to the Regions should be revisited in light of the maturation of the Program and the Board's changing role (Rec. 38).

> **Action:** OSRTI will analyze the number of Records of Decision (RODs) signed each year since the NRRB's inception to identify trends, and determine whether the NRRB has met its initial target of reviewing 10 percent of the decisions each year. A memo has been drafted that lowers the threshold of the NRRB's involvement from $30 million to $25 million. *(OSRTI)*

Recommendation 39: Require Value Engineering. To ensure cost-efficient engineering of remedies, OSWER should require value engineering (review of design detail for cost efficiency) as a requirement for all remedies above a certain dollar level. As an example, particular attention should be paid to the energy and staffing costs of various designs for groundwater pump-and-treat facilities.

> **Action:** OSRTI will conduct at least two value engineering pilots. OSRTI will also develop and issue a fact sheet explaining the value engineering process and benefits and a training module for EPA Regions that pertains to the value engineering process. *(OSRTI)*

Key **- Recommendation 40: Conduct Long-Term Response Reviews.** OSWER should consider cost reviews of every site with an LTRA to reduce remedy costs. Cost saving approaches should be shared across the Regions.

> **Action:** In August 2004, OSRTI established its commitment to routine optimization in a new policy entitled, "Action Plan for Ground Water Remedy Optimization" (OSWER 9283.1-25, August 25, 2004) OSWER will consider all LTRA groundwater restoration projects when identifying priority sites to receive an optimization evaluation. Optimization is intended to encourage systematic review and modification to existing groundwater pump-and-treat systems in order to promote continuous improvement and enhance overall remedy and cost effectiveness. An Action Plan which outlines a process

22

for prioritizing the LTRA projects to receive Remediation System Evaluations (RSEs) will result in site-specific recommendations for system improvement and cost savings. A database will be developed as part of an interagency effort through the Federal Remediation Technologies Roundtable. The RSE reports will be collected and distributed as part of a broader effort to manage information on optimization of performance and long-term site management. *(OSRTI)*

III. Reviewing Specific Records of Decisions

Background:

One of the most significant decisions that the Agency makes in cleaning up a site is the remedy selection. Some sites with remedies selected many years ago, prior to creation of the NRRB and implementation of other Superfund remedy reforms, have not had their remedies constructed. New technology and experience may warrant a different, more efficient cleanup approach. At PRP-lead sites, remedy modifications have been common because the PRPs have great incentives to consider and evaluate potential cost efficiencies that achieve cleanup goals. Many EPA project and program managers have not perceived the same incentives to re-evaluate selected remedies at Fund-lead sites. Now, as budgets have become tighter, looking closely at selected remedies and considering appropriate updates is a potentially critical activity.

Recommendations and Actions:

Recommendation 41: Review RODs. OSWER should set up a review team of Headquarters and Regional staff to make sure that selected remedies at sites incorporate technology and the most cost-efficient cleanup approach based on experience, since the remedies' selection.

> **Action:** Two sites have been selected as pilots: Summitville Mine, Region 8, and Vineland, Region 2. OSRTI senior managers are focusing on the remedies proposed for these sites, primarily because of cost and complexity of the issues surrounding these sites. They are reviewing past and proposed activities, with lessons learned that may be applied to similar analyses at other sites. *(OSRTI)*

Recommendation 42: Identify and Share Successful Remedies. OSWER and the Regions should identify a limited number of common site types and successful designs, and make them available to the Regions for remedies at similar sites. **Recommendation/Option 105: Use Presumptive Remedies and Generic Designs**. *Option 1:* To determine how the Agency has historically developed presumptive remedies, OSWER or the Regions should conduct a lessons learned analysis of how previously identified presumptive remedies were developed and disseminated and determine if those lessons learned can help today. *Option 2:* OSWER should expand presumptive remedy guidance to include more detailed technical designs to speed cleanup and reduce study and design costs.

> **Action:** OSRTI will investigate the potential for making available successful remedies for standard site types. This will be discussed with representatives from the Corps of

Engineers and engineering/design firms to determine what can be done and to assess the utility of different options. There will be consideration of whether different design components are potentially useful or whether they are too site-specific. Also, the investigation will consider how this information could be accessed. Findings will be documented along with recommendations. *(OSRTI)*

IV. Choosing a Funding Mechanism and Providing Oversight

Background:

To clean up a site, the Agency has four options: (1) use a current EPA contract, such as a remedial action contract; (2) award a new site-specific contract; (3) enter into an IAG with another federal agency; or (4) award an assistance agreement to a State. When selecting a mechanism, EPA should take into account the needs of each particular site, the available capacity for the work, the capability of the provider, and the overall cost of the various approaches. Recent data suggest that Regions are using all of these options. In FY 2003, the Agency obligated approximately 56 percent of its remedial action funding to IAGs, 36 percent to contracts, and 8 percent in grants to States.

In many Regions, it appears that RPMs decide whether an IAG, contract, or grant will be used to clean up a site. Because of the importance of this decision to the total cost of a site and the effect on many other areas, including Regional contract capacity and state relations, many interviewees suggested that senior Regional managers should be more consistently involved in this selection decision. In addition, by visiting the site regularly, the RPM can determine first-hand how the work is being conducted, and will be better prepared to deal with any cost or work issues raised by contractors or personnel from other federal agencies.

Recommendations and Actions:

Recommendation 43: Ensure Senior Managers Help Select Cleanup Mechanism. Regional senior management should be involved in selecting the cleanup mechanism (e.g., other federal agency, remedial action contractor, or state) to ensure that funds are being managed as effectively as possible.

> **Action:** This recommendation is already being implemented and therefore no additional action is planned at this time. *(Lead Region)*

Key - **Recommendation 44: Conduct On-Site Oversight.** Regional management should encourage RPMs to conduct appropriate on-site oversight during construction to monitor the activities performed by contractors, other federal or state agencies.

> **Action:** The Regions will be asked to submit a summary of their current practices to the lead Region, who will collect results and distribute them to all Regions and Headquarters for Regional implementation of best practices, as appropriate. *(Lead Region)*

Recommendation 49: Implement FASTAC Approach. The Regions should fully and consistently implement the approach proposed by the FASTAC for cost-effective analytic support for both the remedial and removal programs.

>   **Action:** OSRTI will initiate a new series of teleconferences with Regional managers to consider ways to encourage/oversee FASTAC strategy implementation by: convening face-to-face meeting(s) to explore implementation issues; developing options; discussing next steps, and issuing a revised OSWER FASTAC Directive. *(OSRTI)*

Recommendation 65: Develop Cost-Benefit Analysis for RODs. OSWER should examine the feasibility of using a more quantitative cost-benefit methodology for selecting technology innovation projects, since resources are so limited in order to further improve Program effectiveness.

>   **Action:** The procedures for selecting remedies are given in the NCP. By regulation, remedies are chosen using a cost-effectiveness determination based on consideration of the nine criteria. No further action will be taken against this recommendation as the work is ongoing. *(OSRTI)*

Recommendation 69: Build Cost Analysis Expertise. The Regions should continue to build cost analysis expertise.

>   **Action:** On June 1, 2004, a memo was issued by OSRTI addressing this recommendation. The purpose of the memo was to provide information about the resources available to assist work assignment managers (WAMs) in the preparation of independent government cost estimates (IGCEs) for Superfund site projects. *(OSRTI – Complete)*

V. Benchmarking

Key **- Recommendations 18 & 101: Remedial Pipeline Benchmarking.** The Agency should conduct benchmarking studies of Regional performance in both management and programmatic areas to ensure that all aspects of the program are focusing on improving performance. Once an activity is benchmarked, relevant offices should develop measures to ensure that underperforming Regions improve their performance to benchmarked levels. Those measures could then be used as standards for performance.

>   **Action:** OSRTI will evaluate available information, work outputs, and work outcomes to determine/identify appropriate Regional performance benchmarks that can be quantified. These benchmarks will include performance indicators for both management and programmatic activities. Benchmarks should be applicable across all Regions. This project is comprised of four phases:

- Phase I - Document frequently used outputs and outcomes, categorize whether the output or outcome is of programmatic or management nature, and resolve issues related to benchmarking.
- Phase II - Using the data collected in Phase I, develop potential quantitative and qualitative benchmarks based upon the criteria for site-specific pipeline cleanup activities such as RI/FSs, RDs, RAs (durations data), financial management activities (e.g., percent of funds expended within three years), PRP searches, and other applicable activities.
- Phase III - Analyze data to determine how each Region measures against the benchmarks, identify Regional leaders in each area evaluated, and develop a plan to transfer best practices to Regions and foster opportunities for innovations in getting work done more efficiently.
- Phase IV - Evaluate whether integration of benchmarking and best practices improved program performance. *(OSRTI)*

Chapter 3

CONTRACTS/GRANTS MANAGEMENT

Introduction

One of the quickest and perhaps most effective ways to inject more funding into the remedial action pipeline is through deobligations and the effective management of contracts, grants, and IAGs. Timely billing and closeout, and the quick re-programming of deobligated funds, can help meet both near- and long-term needs to address funding shortfalls for long-term cleanups.

The recommendations in this chapter suggest ways to more efficiently use Superfund dollars through effective contract, grant, and IAG management processes. These recommendations fall into two subcategories: (1) Contracts & Grants/IAGs; and (2) Training (in these management processes).

3.1   CONTRACTS & GRANTS/IAGs

Background:

The recommendations in this section address issues with the management—especially billing and closeout—of contracts, grants, and IAGs.

Over the last several years, OSWER has led an Agency-wide effort to deobligate excess funds on contracts or funds on expired contracts. This effort has deobligated a significant amount of money—$219 million in FY 2002 and $109 million in FY 2003. OSWER recently began to focus on IAGs, especially those with the Corps of Engineers (the federal agency EPA partners with most). The Agency's approach to deobligations should focus both on near-term, one-time opportunities, and on longer-term procedural changes that would achieve a consistently higher rate of utilization of obligated funds, so that fewer and smaller deobligations are needed.

The Study noted that the policy memoranda and guidance regarding the Brownfields Program are another potential area of change. Deobligation policy documents for Brownfields grants were written prior to the enactment of the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (Brownfields Act). These documents directed the Regions to review and take action on older grants where funds had not been expended. In December 2003, upon reviewing all the funds obligated for Brownfields activity since 1993, the Study team found that a substantial number of grants with obligated funds still had no expenditures. While the Regions have begun the process of reviewing these grants, resulting in deobligations and better utilization of the grant funds, the Regions should carefully review all remaining grants to ensure the work will occur.

The timely and efficient billing and closeout of grants, IAGs, and contracts is critical to effective overall Program management. When looking at this area, the Study team found that the efficiency of the billing and closeout process differs for each funding mechanism. Because contractors have a built-in business incentive to provide EPA with clear and prompt invoices, this process tends to work the smoothest. Contracts management also benefits from a fully automated billing and payment system, which is not now available for grants and IAGs. However, in recent years, grants management has improved due to a series of measures initiated by the Office of Administration and Resources Management (OARM) and implemented by senior resource officials. These measures have included developing a national plan for managing grants, updating policies, and improving training. However, there is still one major hindrance to grant closeouts in the Superfund Program: several Regions are having difficulty getting some of their States to submit final financial status reports. This may be due to a variety of factors, including budget cuts in the States and lack of incentives.

The inability to quickly close out contracts and IAGs is an important issue in the Program. Closeouts for IAGs are delayed primarily because of other federal agencies' inability to provide a final bill or technical report. Contracts are slow to be closed out because of late subcontractor billings or disputes, various contractors' claims and protests, adjustments to overhead rates, final audits, etc. Consequently, the Regions do not deobligate funding on contracts or are unable to do so for IAGs, sometimes for many years beyond construction completion. Regions are reluctant to deobligate any funds prior to closeout of contracts or IAGs because they are concerned that any trailing costs or adjustments to overhead rates would come out of their current year funding. These concerns discourage any attempt to deobligate funds prior to closeout, which needlessly ties up funds that could be used on current remedial or removal actions at NPL sites.

The Study Team received the most input in the IAG area. It appears that improvements are needed by both EPA and EPA's partner agencies. The Study found that EPA needs to manage IAGs with other federal agencies better, particularly billing and oversight. There is a perception in the Agency that some Regions are using IAGs as a default vehicle instead of deliberately choosing an IAG because of the unique capabilities of the other federal agency or specific cost issues. Further, the overhead rates charged by the U.S. Corps of Engineers and by other federal agencies appear to vary widely, and there is confusion among some Regions regarding procedures for invoicing from the Corps. Frustration with the IAG billing process for all federal agencies is widespread, both in terms of lump-sum invoices submitted and long delays in resolving outstanding billing issues.

Regional managers and staff also expressed a need for the proper tools and reports to be able to manage IAGs better. The Agency has some systems already in place, and others that may only need to be expanded to address this and other issues regarding better IAG management. One system is the Integrated Grants Management System (IGMS). Another possibility is ORBIT, a new system currently being launched by OCFO. Some Regions felt strongly that IGMS would assist them in monitoring and closing out IAGs.

While many of the issues raised were focused on IAGs with the Corps, because the Corps has the overwhelming number of IAGs with the Superfund program, the Study's recommendations apply to all IAGs.

One specific grant issue that was raised is the number of newer grants going to States that still have large sums of money remaining on existing grants for the same type of work. Some Regions have begun to address this problem by not issuing new grants for the same activities until the money on older grants is expended and the grants are closed out.

Recommendations and Actions:

Recommendations 70 and 71: Revise Brownfields Deobligation Policies and Evaluate Grants Status. OSWER should review and potentially revise the Brownfields deobligation policy documents in light of statutory changes and the progress made in reviewing older grants (Rec. 70). In addition, OSWER and the Regions should evaluate the unexpended dollars on older Brownfields grants to determine if those funds can be used for the original award purpose (Rec. 71).

> **Action:** OBCR prepared, signed, and distributed a policy memo recommending that EPA Regional Brownfields and Grant staff review the performance of recipients of 1999 and 2000 Brownfields Cleanup Revolving Loan Fund (BCRLF) pilot grants. It included a list of the BCRLF recipients awarded grants in 1997, 1999, and 2000, to ensure the recipients' performance is assessed and transition or deobligation is encouraged. In addition, OBCR will work with Regions to review outstanding assessment grants to determine whether they should be deobligated and funds redirected for other Brownfields purposes, where appropriate, or returned to Regions or Headquarters to supplement Superfund. OBCR will review and revise the Brownfields deobligation policy to more explicitly address statutory changes and programmatic experiences and goals, as allowed. *(OBCR)*

***Key* - Recommendation 72: Establish $5 Million Pool.** For Programmatic contracts and IAGs, OSWER should immediately establish a pool of $5 million to cover indirect cost rate adjustments and late bills for Headquarters and Regional response contracts and additional bills for IAGs. This pool will give the Regions and Headquarters more incentive to deobligate funds after a contract or IAG expires. Once the pool is formally established, OARM and the Regions could begin deobligating funds from older expired contracts. In addition, formal establishment of this pool may assist in convincing other federal agencies to agree to close out or reduce the dollars available on expired IAGs.

> **Action:** The Agency already maintains a fiduciary reserve to cover upward adjustments and overruns (antecedent liabilities) from prior years in each appropriation. The amount of the reserve will be increased to $10 million. This reserve is available to offices that use Superfund money, with the exception of ORD. Guidance will be developed and then issued. *(OARM/Office of Acquisition Management [OAM])*

Key **- Recommendation 73: Resolve Federal Agency Billing Issues.** OCFO and OARM should work together to develop standard operating procedures for resolving billing issues with other federal agencies.

> **Action:** EPA cannot control other agencies' methods or frequency of billing, nor can it alter the Interagency Payment and Collection (IPAC) billing system that is used for all federal billing transactions. EPA can only request that the Agency Project Officers (POs) communicate with the other federal agencies to determine the status of the project and the projected use of funds to determine if some money could be deobligated while waiting for the final invoice. EPA is addressing this through the Grants Administrative Division (GAD) project officer training courses. The Cincinnati Finance Center has been participating in a GAD work group that is trying to identify and put in place more accurate means of closing out interagency agreements. The work group is developing recommendations to speed up the closeout process and deobligate unneeded funds from open agreements. *(OCFO)*

Key **- Recommendation 75: Review IAG Closeout Policies.** OARM and OCFO, in consultation with the Grants Management Council (GMC), should review the current IAG closeout policy to determine if any revisions to the guidance are needed.

> **Action:** Current IAG closeout policies were reviewed and a work group was established; recommendations were presented to all Regional Grants Management Officers (GMOs) in May 2004, and to the Grants Customer Relations Council (GCRC) for comments in July 2004. The Policy, Information and Training Branch (PITB) will revise current closeout policies and guidance, and present these to the GMC at its first meeting in FY 2005. *(OARM)*

Key **- Recommendation 76: Resolve Grant Closeout Issues.** Common grant closeout issues should be discussed at the GMC, and the Agency should establish consistent approaches to these problems.

> **Action:** GAD will discuss with all Regional GMOs and the GCRC some common problems experienced in closing out grants. GAD will present its recommendations to the GMC at its first meeting in FY 2005. In addition, the recommendations will be presented to the GMOs in 2005. *(OARM)*

Key **- Recommendation 77: Resolve Federal Agency IAG Closeout Issues.** Headquarters and the Regions should identify which other federal agencies they are having difficulty with managing and closing out IAGs. They should communicate the issues and problems to OARM and OCFO, who will contact their counterparts at the other federal agencies to resolve them.

> **Action:** GAD will coordinate with the Regional offices to identify which federal agencies are causing closeout problems for EPA. GAD and OFCO visited the U.S. Department of Health and Human Services (HHS) to discuss that Department's processing, invoicing, and closing of IAGs. Because of the complex way HHS is

structured, GAD is currently looking into selecting another federal agency to discuss closeout procedures. *(OARM)*

Recommendation 78: Establish Closeout PMs. For IAGs, grants, and contracts, OARM should establish appropriate closeout performance measures and send quarterly reports to Senior Resource Officials (SRO) with outstanding closeouts, including the amount of outstanding dollars.

> **Action:** For IAGs and grants, closeout performance measures have been established and regular reports are being obtained. No further action will be required. For contracts, Superfund's RCRA Regional Procurement Operation Division (SRRPOD) plans to more strictly enforce existing Federal Acquisition Regulations (FAR) procedures and guidelines, and to employ quick closeout whenever possible. *(OARM)*

Recommendation 81: Consolidating Contract Functions. OARM and the Assistant Regional Administrators (ARAs) should conduct an analysis to determine if cost efficiencies and programmatic benefits can be obtained by consolidating contract functions.

> **Action:** The ARAs, OARM, and OSWER may develop an approach to systematically conduct analysis of the efficiencies and benefits of consolidating contract functions. Considerations should be given to the factors considered in the consolidation of Region 10 and Regions 7 functions; some of the factors considered in this consolidation included examining the workload per employee in the Contract unit and comparing this to the cost of staffing the unit (e.g., employees; office space; special continuing training and education for contacting staff; special automation programs; etc.). It was determined that that savings could potentially be achieved if contract services were instead provided by another organization with better economies of scale and infrastructure. *(OARM)*

Key - **Recommendation 83: Monitor Contract Funding.** OSWER should work closely with the Regions to monitor contracts to ensure that the Regions have not funded their contracts into the future to an extent where they cannot appropriately use the funds during the contract period.

> **Action:** OARM and OSWER will monitor a number of established reports in the existing Monthly Executive Summary Report. They will also utilize ad hoc reports on what work is being done to track trends in spending as well as work that has crossed over from one Region to another. In a case where a contract has been funded to an extent where the funds cannot appropriately be utilized during the contract period, OARM and OSWER will jointly issue a letter to each Region's SRO and Regional Contracting Officer (RCO) requesting correction. *(OARM/OAM)*

Key - **Recommendation 84: Establish Policies for the Duration of Grants and IAGs.** In the near term, the OSWER Senior Resource Official should establish policies for the duration of grants and IAGs. For the long term, OARM should work with the Agency to establish Agency policies for the durations of all types of grants and IAGs. (For the older grant and IAGs that have had their periods of performance extended on multiple occasions, the Senior Resource

Official should monitor those agreements carefully and work with OARM to close them out as soon as possible). For new grants and IAGs, these assistance agreements should be closely monitored to ensure that they do not exceed the new durations, whose length may vary depending on type of activity.

> **Action:** GAD has policies and regulations for the duration of research and training grants. A work group that includes Headquarters and Regional representatives will be established to develop policies for the duration of Special Purpose grants. Recommendations will be presented to GMOs and GCRC for comments. Policies for the duration of IAGs will be reviewed and revised accordingly, and PITB will revise current closeout policies for IAGs. *(OARM)*

Key **- Recommendation 85: Establish Grant-Monitoring Criteria.** OARM and the Regions should analyze the different types of grants to determine their current funding levels and draw-down histories and establish criteria that will be used to evaluate grants that need increased monitoring.

> **Action:** No additional action will be taken against this recommendation as this is an ongoing effort. GAD currently has a Post Award Monitoring Plan used throughout the Regions and Program offices that addresses the recommendation issues. *(OARM/GAD)*

Key **- Recommendation 87: Improve Grant Monitoring.** OARM should continue to build upon the improvements already undertaken to better monitor grants in the areas of billing, deliverables, and milestones, and should ensure that the proper monitoring tools are available to managers and staff. As part of training for new project officers and recertification training, OARM should continue to ensure that all staff members are fully trained on using available tools, such as the Financial Data Warehouse and OARM databases.

> **Action:** GAD's Long Term Training Plan proposes to train the Agency's workforce on the core competencies required for effective grants management, including using the proper monitoring tools available. GADs Long Term Training Plan is final and was issued in September 2004. *(OARM/GAD)*

Recommendation 88: Provide IGMS Module Updates. OARM should provide status updates to project officers and managers on the future deployment of the IAG module of IGMS.

> **Action:** Deployment of IAGs into the Integrated Grants Management System remains in GAD's 2005 budget. Higher priorities continue to take precedent over it. Updates will be provided at the monthly GMO conference calls and at the GCRC meetings. *(OARM/GAD)*

Recommendation 92: Analyze Federal Agency Indirect Cost Rates. OSWER and OARM should analyze how much EPA is paying other federal agencies in indirect, Project Planning and Management Division (PPMD), and other costs.

Action: No additional action is required as work is ongoing that meets the goal of this recommendation. Through discussions with the Army Corps of Engineer's (COE) PO in OSWER, EPA determined that significant analysis has been, and continues to be done, on this IAG with respect to direct and indirect costs. The PO has a schedule which details the indirect rates, the manner in which the COE Program Manager charges his/her time (direct versus indirect), and the role of PPMD in each of the Districts. Starting in FY 2005, these costs will be recovered through a separate indirect rate enabling EPA to include these amounts in their cost recovery cases. *(OCFO)*

Recommendation 93: Negotiate National IAG Overhead Rate. EPA Headquarters should negotiate a national overhead rate for all IAGs depending on the results of the (above) analysis. In addition to eliminating the tremendous variability in overhead rates charged to the Regions, this single, national rate should be negotiated with the intent of minimizing costs to EPA.

Action: No further action is required for this recommendation. Based on further analysis of the 120-Day Study recommendations, the focus of this recommendation appears to be on EPA Funds-out IAGs (i.e., the IAGs EPA has with other Agencies where we are paying them to do work for us) with the COE. Additional research on this recommendation indicates that the COE has substantiated rates that it applies to its IAGs with other Federal entities. EPA POs may request and review the supporting documentation, and may request negotiations with the COE, however, there is no requirement for the COE to enter into negotiations with EPA. *(OCFO)*

3.2   TRAINING

Background:

A key to the effective management of contracts, grants, and IAGs is the proper training of staff managing these funding mechanisms. While OARM has undertaken measures to improve training in grants management, the Study noted that some of the issues involving IAGs may result from a lack of training, specifically on IAGs. Issues that may need to be included are emphasizing deliverables and milestones as part of an IAG and defining appropriate criteria for when to extend the project period for an IAG.

The Agency continues to explore ways to obtain cost savings and efficiencies through different contract types. OARM has been exploring alternative contract types for several years, and now conducts performance-based contract training on a case-by-case basis when an office prepares a new contract procurement. Because many of the alternative types of contracts are new to contracting officers and project officers, increased training and oversight will be necessary. It is also important for senior management to gain an understanding of alternative types of contracts to ensure that they are considered when contracting decisions are made.

An issue that was discussed during the Regional interviews is the importance of the experience of the RPM overseeing the RAC work assignment. Ensuring that RPMs can successfully

manage the complexities of the RAC requires appropriate training and oversight of RPMs. OSCs receive more rigorous contract training than RPMs because the nature of their work requires them to make on-the-spot decisions that can affect a contract. It may be useful for OSWER to evaluate whether portions of OSC contract training should be incorporated into RPM contract training. Another option is to conduct peer reviews of work assignments and IGCEs developed by less-experienced RPMs as needed. Even with appropriate training and oversight, an RPM needs to spend time in the field monitoring the contractor at the site. Without a field presence, the cost of the work being conducted at a site can easily increase.

Recommendations and Actions:

Recommendation 74: Circulate Direct Cite Payment Process. If it has not already done so, OSWER should circulate the Direct Cite payment process document to the Regions and ensure that staff members are properly educated on the process. It may be prudent for OSWER and the Regions to review the process to determine if changes need to be made.

> **Action:** The Direct Cite Payment Process is documented in an existing fact sheet that is currently available on the Superfund Web site. It is also available on the joint EPA/U.S. Corps of Engineers Web site. Joint EPA/Corps training procedures for issuing and managing interagency agreements now includes greater emphasis on, and discussion of, the Direct Cite Payment Process. *(OSRTI)*

Recommendations 79 and 80: Encourage Use of Alternative Contracts and Conduct Training. OARM, OSWER, and the Regions should work together to encourage the use of alternative contract types. OARM and Regional contracting officers should offer regular training for contract personnel, RPMs, OSCs, and project officers in alternative contract mechanisms.

> **Action:** OARM will continue partnering with OSWER and the Regions in exploring the use of alternative contract types, particularly response action contracts, where EPA stands to derive the greatest amount of savings, and in providing training in performance-based service contracting (PBSC).
>
> Training in PBSC has been provided at the last two annual Project Officer-Contracting Officer (PO/CO) training conferences. Training in PBSC has been provided at the last OSC Readiness Training as well as at the last four OSC warrant training classes. OAM SRRPOD has provided on-site acquisition training in almost all the Regions at least once in the past 18 months to help the warranted OSCs meet their 40 hours of mandatory continuing acquisition training. These on-site acquisition training sessions have included sessions on PBSC. A national work group has developed PBSC tasking templates for common reoccurring tasks under ERRS and START and have been posted to the Internet for all POs and OSCs to utilize.
>
> Nationally consistent Blank Purchase Agreements (BPAs) have been issued for a significant amount of emergency response and counterterrorism equipment. This has resulted in a consistent interchangeable inventory throughout the Removal Program. This

has increased efficiency and simplified training and familiarization with equipment usage. *(OARM)*

Recommendation 82: Provide Increased Contract Management Training. OSWER, with support from OARM, should provide increased contract management training. Increased training or peer reviews could focus on development of work assignments and IGCEs, reviewing invoices, and overseeing contractors.

> **Action:** Throughout the year, OAM conducts multiple sessions of several types of contract training nationwide. The schedule of sessions is published in the Intranet at http://intranet.epa.gov/oamintra/. Relative to remedial actions, the Superfund Program may enhance the capabilities of RPMs by promoting and encouraging their attendance at OAM's optional three-day Contracting Officer Refresher (COR) Training Course, which focuses on the entire process of tasking a contractor from the initial procurement package to closeout. Further augmentation of this training course by adding related RAC-specific issues will enhance course usefulness to RPMs.
>
> OAM intends to continue with conducting formal training in routine contract management and special interest topics, Program outreach, and information exchanges with Program offices throughout the year. OAM also plans to continue with the conduct of the acquisition conferences, historically held every two years. *(OARM/OAM)*

Recommendation 86: Improve IAG Training Course. OARM should continue its commitment to create an improved overall training course for project officers and IAG specialists focusing solely on IAGs. Topics that may need to be included are emphasizing deliverables and milestones as part of an IAG, outlining criteria for when to extend the project period, managing billing issues, and emphasizing proactive monitoring of IAGs.

> **Action:** Activities include: separating the IAG Project Officers Training from the already-established three-day Grants Project Officer Training course; deploying online the IAG Refresher Project Officer course; and maintaining and updating the online course to include any new or additional materials. *(OARM)*

Chapter 4

LEVERAGING ALL AVAILABLE
CLEANUP RESOURCES

Introduction

The recommendations in this chapter address the use of Superfund enforcement and other available cleanup resources to maximize the amount of cleanups and ensure that limited Trust Fund resources are available for orphan sites or those with recalcitrant PRPs. The Study suggests areas where more effective enforcement, particularly in earlier stages of the Superfund cleanup process, as well as State and other authorities would make more resources available for cleanup at orphan sites.

The recommendations under Leveraging All Available Cleanup Resources fall into three subcategories: (1) PRP-lead Cleanups; (2) State-lead Cleanups; and (3) Other Cleanup Authorities.

4.1   PRP-LEAD CLEANUPS

Background:

The long-term success and financial viability of the Superfund Program depends in a large part on a robust enforcement program. Every dollar spent on Superfund's civil enforcement program returns approximately $8 to the Program.

In recent years, the Regions have placed more focus on enforcement, particularly following the inception of the "enforcement first" initiative. Over the life of the Program, responsible parties have funded more than $18.1 billion in response actions at NPL sites. The Program has also secured commitments for an additional $3.9 billion in cost recovery settlements. Site-specific special accounts have generated $177 million in interest from the $1.1 billion collected.

While these results are impressive, improvements in management and performance measurement would increase the enforcement program's effectiveness, particularly for RI/FSs and removals. Over the past three years, PRPs have conducted 70 to 80 percent of the remedial actions while performing less than half of the RI/FSs and only 20 percent of removals (this increases to 41 percent when including those removals without orders). Performance has been highly variable, however: some Regions have a very high historical performance with more than 60 percent of their RI/FSs conducted by PRPs, while others had more than 60 percent of removals conducted by PRPs. Obtaining similar success, if possible, in other Regions through the sharing of "best practices" could free up additional funds that could be made available for remedial actions at sites with no liable/viable PRPs—so-called "orphan sites."

Recommendations and Actions:

Recommendations 4 and 23: Maintain Sufficient Site Listing. OSWER and the Regions should work together to maintain a sufficient rate of listing on the NPL to provide clear incentive for PRPs to perform work under the Superfund Program as well as other Programs or authorities (Rec. 4). OSWER should maintain a sufficient rate of listing on the NPL to function as an incentive for PRPs to perform work under the Superfund Program as well as other Programs and authorities (Rec. 23).

> **Action:** OSRTI sent a memo to the Regions dated December 1, 2004, announcing that OSWER will return to a regular schedule for proposing and finalizing sites on the NPL. This will be done twice a year (April and September). *(Complete)*

Recommendations 5: Start Fund-Lead Actions. OSWER should allocate resources to start Fund-lead actions at every step in the Superfund pipeline, thereby motivating PRPs to commit to taking on work and freeing up appropriated dollars over the long term.

> **Action:** No additional action is required pursuant to this recommendation as this is a current activity. *(OSRTI)*

Key **- Recommendation 24: Maximizing PRP Involvement.** While continuing to stress early PRP search activity and maximizing PRP involvement, OSWER should continue to target funds to begin RI/FS work where PRP recalcitrance is evident.

> **Action:** On July 1, 2004, OSRTI and OSRE distributed draft guidance for comment on "Early Enforcement at Superfund Sites: Negotiation and Enforcement Strategies for Remedial Investigation/Feasibility Studies (RI/FS)." This guidance will go final in the second quarter of FY 2005. *(OSRTI)*

Key **- Recommendation 53: Conduct Effective Early PRP Searches.** Conduct responsible party search benchmarking to identify strong Regional programs to increase the percentage of PRP response actions at all phases of the Superfund pipeline and take further pressure off appropriated funds.

> **Action:** OSRE will conduct a Program evaluation of Regional PRP search efforts to determine the relationship between enforcement success and PRP search expenditures and practices. Additional follow-up actions will be identified based on the outcome of this evaluation. As a component of the Program evaluation, OSRE will evaluate Regional trends, PRP search "best practices," and barriers to identifying PRPs early and getting them to perform RI/FSs. *(OSRE)*

**Key** **- Recommendation 54: Increase Removal Enforcement.** OECA and OSWER should work with the lead Regions to develop goals similar to those in the Remedial Program for enforcement first in the Removal Program to increase the percentage of PRP-conducted removal actions.

> **Action:** OSRE proposes to conduct a Program evaluation of Regional removal enforcement efforts to determine the relationship between enforcement success and removal enforcement practices. Additional follow-up actions will be identified based on the outcome of this evaluation. *(OECA)*

Recommendation 55: Establish Contact for Enforcement First for the Removal Program. OSWER should identify a management liaison who can work with OECA to facilitate and support enforcement first for the Removal Program.

> **Action:** The Director of the Program Operations and Coordination Division is the key point of contact in the OEM on issues related to Removal Program enforcement. A point of contact has been identified. This action is complete. *(OEM)*

Recommendation 56: Enhance Insurance-Related Cost Recovery Expertise. OECA, in consultation with DOJ, should explore ways to access or gain greater expertise in the area of insurance-related cost recovery, and sponsor several pilot programs across the country to increase potential sources of funding for orphan sites.

> **Action:** Several actions will be taken to address this recommendation. They include: developing and implementing a pilot contract to assist Regions on enforcement cases involving insurance issues; developing a memo to the Regions explaining the process for accessing contractor support for evaluating insurance issues; providing support to the Regions in preparing case materials; and developing a lessons learned report. *(OECA)*

**Key** **- Recommendation 58: Ensure Efficient PRP Oversight.** Develop procedures that encourage continued collaboration with PRPs in site cleanups in order to decrease the need for EPA's expenditure of oversight resources.

> **Action:** In the fourth quarter of FY 2004, comments were received from the Regions on a draft memo which recommended that Superfund managers employ the guidelines provided in the RCRA "Results-Based Approaches and Tailored Oversight Guidance," when considering how and when to apply appropriate levels of oversight at Superfund sites. OSRE is currently evaluating the input and expects to issue guidance in 2005. OSRE also has drafted guidance on Prepayment of Oversight from Special Accounts. *(OECA)*

4.2   STATE-LEAD CLEANUPS

Background:

The States have played a vital role in Superfund since the Program's inception, and that role has changed and fluctuated over time. They have played a major part in setting cleanup standards for Superfund sites, and have taken the lead on community relations at many sites. States have influenced the listing and non-listing of NPL sites, and have put forth additional State funds, beyond their 10 percent share, to clean up sites.

States want varying degrees of independence in implementing the Superfund Program. Many States now have their own Superfund or hazardous waste programs, and EPA established a grant program to help build State Superfund capacity. However, even with this funding, States vary tremendously in their capacity to clean up and manage waste sites. Some are national leaders while others, often due to budget decisions and programmatic choices, have little or no response capability. Likewise, EPA has seen varying degrees of success when States are in the lead role for NPL remedial activities.

EPA should re-examine its NPL State-lead sites to determine if these are the most cost-effective mechanism for site remediation. Most likely, it will vary tremendously State by State. The use of State-lead in NPL site remediation should be based solely on good business decisions, such as cost effectiveness, timeliness, previous performance, etc. This review of State-lead NPL responses should in no way impact the ongoing role the States and EPA enjoy in voluntary cleanups, the Brownfields Program, and non-NPL sites, as well as the traditional role states play in all NPL sites (e.g., ARARs, community relations).

Recommendations and Actions:

Recommendation 45: Review EPA Policies on State-lead Cleanups and the Adequacy of these Actions. OSWER, OECA, and the Regions should re-examine existing policies relating to State-lead clean up. In the process an evaluation should be conducted to determine if the policy includes areas such as capability, past experience, cost and timeliness. EPA should consider if the State role should be determined using similar criteria as that used for choosing a remediation contractor or other federal agencies. In addition, the Regions should re-examine existing State lead sites to determine if the remediation is being conducted in a timely and cost efficient manner.

> **Action:** Regions currently conduct annual reviews of individual State programs using the Superfund Comprehensive Accomplishment Plan (SCAP)/Superfund Program Implementation Manual (SPIM) process. Many conduct quarterly meetings on site cleanups. Some Regions have work-sharing procedures that direct incoming sites into federal- or State-lead, or into Superfund or other federal or State programs. Currently, Regional decisions consider state capability, past experience, cost, and timeliness. *(OSRTI)*

Recommendation 46: Re-examine State-lead Sites. OSWER, OECA and the Regions should re-examine State lead sites to determine if the remediation is being conducted in a timely and cost efficient manner.

> **Action:** No additional action will be taken against this recommendation as this is ongoing. Annually EPA Regions meet with the States to review State- and federal-lead sites, and evaluate progress, expenditures, and budgets for the coming year. The Regions already review RODs prior to finalizing, and State-lead sites are still subject to the Remedy Review Board. The Program believes that this constitutes an evaluation to determine if remediation is conducted in a timely and cost effective manner. *(OSRTI)*

Recommendation 48: Determine State Core Funding Needs. OSWER should evaluate the need, the overall funding levels, and the priorities for State cleanup programs given the Section 308 program and the original goal of the Core program to build State capacity. Working with ATSWMO and collaborating with individual States, the Agency should communicate the goal and results of the evaluation.

> **Action:** No additional action will be taken against this recommendation as the work is ongoing. EPA provides to the Regions and the States a breakout of all Cooperative Agreement Funds sent to the States along with a summary of what has and has not been spent. These unliquidated balances are shared with ASTSWMO and others to ensure that Superfund Cooperative Agreement monies allocated to States are spent appropriately and that unfunded actions are deobligated. The Brownfields Program also tracks closely 128 grant funds to States. This is a regular, ongoing task that will continue in the future. *(OSRTI)*

4.3   OTHER CLEANUP AUTHORITIES

Background:

The prevention of a continually expanding Superfund site universe will depend largely upon a strong RCRA program. Some sites on the NPL are a direct result of insufficient financial assurances to fund the cleanup necessary when the facility at that location ceased operation. Similarly, removal actions occur at RCRA generation sites, for which financial assurances are not required. The Agency eventually lists some of these sites on the NPL.

A number of interviewees think that certain decisions made in the RCRA program may result in the need for additional future cleanups under Superfund. For example, there is a fairly broadly held belief that EPA could substantially reduce future Superfund workload if it revamped

regulations and policies that enable the start-up and continuation of operations that handle hazardous wastes, but whose financial and/or technical wherewithal to prevent or respond to releases is questionable.

During the more than 20 years of the Superfund Program's existence, more than 7,000 removal actions have been conducted. There now should be sufficient data to perform an historical analysis of these actions to determine if any patterns are apparent. For example, are particular types of industry or businesses are more likely to require a removal action (or have sites listed on the NPL)? If certain categories repeatedly require removal actions, the Agency should evaluate what, if any, changes should be made to the applicable regulations, policies, or guidance.

Recommendations and Actions:

Key **- Recommendation 10: Evaluate NPL Listing Trends for RCRA Treatment, Storage and Disposal Facilities (TSDFs).** OSWER should evaluate the history of NPL listings and removal actions to determine what percent were RCRA TSDFs or hazardous waste generators and to what extent these facilities present a continuing burden to the Superfund program.

> **Action:** The Office of Solid Waste (OSW), OSRE, and OSRTI will work together to analyze sites addressed by Superfund. The analysis will specifically evaluate RCRA TSDF facilities before and after financial assurance regulations were implemented, RCRA generators, and other sites addressed by Superfund. This analysis will help assess whether RCRA's financial assurance provisions have been effective, and whether a similar analysis should be conducted for other categories of RCRA (and other) sites. *(OSRTI)*

Key **- Recommendation 11: Determine Adequacy of RCRA Financial Assurance.** If the evaluation confirms a high correlation with RCRA-regulated facilities, OSWER and OECA should examine different approaches to financial assurance under the RCRA program to reduce the likelihood of RCRA-regulated facilities becoming part of the future Superfund universe.

> **Action:** Work on this action will be impacted by two other efforts: the study undertaken pursuant to Recommendation 10, and the work of the Environmental Financial Advisory Board (EFAB), which has been charged with reviewing related financial assurance issues. Action on Recommendation 11 will await the preliminary analysis for Recommendation 10, and will include coordination with the EFAB schedule (not yet developed). Pursuant to Recommendation 11, OSWER will conduct an analysis and produce a report with recommendations, if any, for enhancing the financial assurance requirements under RCRA to prevent future burdens on the Superfund Program. EPA would consider EFAB's work as part of its ongoing analysis and recommendations, as well as OECA's work in assessing whether financial assurance will be a national enforcement priority in FY 2006/2007. In addition, OECA is currently evaluating whether to include Financial Assurance as a national program priority for FY 06. The
>
> Priority is likely to focus on compliance with CERCLA and RCRA financial assurance requirements. *(OSW/OSRTI)*

Key - **Recommendation 12: Evaluate Financial Assurance for non-RCRA Facilities.** For facilities not covered under RCRA, OSWER should study whether promulgating new regulations under the Comprehensive Environmental Response, Compensation and Liability Act's (CERCLA) broad financial assurance authorities could reduce the future needs of the Superfund program.

> **Action:** OSWER (OSRTI and OSW) will review the NPL listings and removal actions at non-RCRA facilities to determine if risks and costs associated with facilities impacting the Superfund program make promulgation of financial assurance requirements under CERCLA 108(b) advisable.

- _First,_ OSWER will evaluate those types of facilities that have a significant impact on the Superfund program in an effort to identify those classes of facilities for which financial assurance would be most appropriate given the statutory criteria.

- _Second,_ OSWER will assess the information for cleanup actions for the classes of facilities being identified as being the most significant in terms of assessment, removal, and remedial actions. This information will form the basis for recommendations for next steps in terms of promulgating regulations under CERCLA 108(b). EPA would consider EFAB's work on financial assurance as part of its ongoing analysis and recommendations, as well as OECA's work in assessing whether financial assurance will be a national enforcement priority in FY 2006/2007. In addition, OECA is currently evaluating whether to include Financial Assurance as a national program priority for FY 06. The Priority is likely to focus on compliance with CERCLA and RCRA financial assurance requirements. A decision will probably be made at a meeting of the OECA Planning Council in January 2005. _(OSRTI and OECA)_

Key - **Recommendation 36: Evaluate Removal and NPL Listing Trends by Industry Sector.** OSWER should conduct an evaluation of historical removal actions to determine whether patterns exist in certain industries (Standard Industrial Classification codes). If the evaluation reveals that certain industries repeatedly end up on the NPL, the effort could go on to identify available or needed mechanisms by all authorities to address recurring issues.

> **Action:** OEM will conduct data analysis of CERCLIS removal action data, including whether data quality will support a thorough analysis; break out removal action CERCLIS data by industry groups; and identify clear trends related to specific industries. _(OEM)_

Chapter 5

COMMUNICATION

Introduction

The recommendations in this chapter address EPA's communications processes. The Study suggests areas where more effective internal communication can improve Program efficiency and data collection important to Program reporting, and where enhancements to EPA's external communication can more accurately portray the Superfund Program's accomplishments and boost the Program's profile.

Background:

To successfully manage a complex environmental program with multiple sources of funding, managers and staff need easy access to information. Superfund managers need programmatic and management (finance, grants, contracts, etc.) reports. RPMs and OSCs need site-specific information, contract and IAG information, etc. All parts of the Program have a need for easy access to information that is presented in a way that is useful to them. Various tools are currently being used, enhanced, or developed within the Agency that can facilitate access to Program information. These tools should be shared across the Program to avoid duplicative efforts.

Congress and others outside the Agency have expressed concern that the Agency is not spending enough money on cleaning up Superfund sites. In its FY 2004 report, the Senate Appropriations Committee noted that the Agency was spending only 16 percent of the annual appropriation on site construction and LTRAs, and directed the Agency to spend no less than the 22 percent of the annual appropriation. When the Conference Committee completed its work on the Agency's 2004 budget, it did not direct the Agency to target a specific percentage of funding to site construction.

A concern within EPA is that expenditures for long-term cleanups and LTRAs do not represent all of the funding being spent on cleanups. The percentage referenced by the Senate Appropriations Committee understates the true amount invested in cleanup because it only represents the money going to contractors and other federal agencies. More importantly, it does not include other key activities that are speeding up all long-term cleanups at Superfund sites.

EPA needs to more accurately report the amount of funding it invests each year related to long-term cleanups, which means the Agency needs to revise how it collects (internally) and reports (externally) cleanup data.

Over 70 percent of Superfund cleanups are currently performed by PRPs as a result of the Agency's vigorous enforcement program. The costs of the enforcement program typically are not included as part of the cost of cleanups.

In the end, the more accurate portrayal of cleanup costs will help the Agency better showcase its cleanup accomplishments, and to respond to Congressional inquiries regarding appropriations vs. spending.

EPA also needs to ensure it is collecting and reporting information on cleanup activity at SASs, which, like the cleanup cost reporting, will more accurately portray the totality of EPA's cleanup efforts and accomplishments.

Finally, it is important that EPA improve its coordination with IAGs with other federal agencies, especially the U.S. Corps of Engineers. Regular communication among EPA and other federal agencies will help ensure optimum performance and results in shared programmatic activities.

Recommendations and Actions:

Recommendation 13: Effectively Communicate Cleanup Costs. The Agency should collect data at the end of the budget year on the amount of funds spent on direct cleanup or on those activities that are necessary to get to the cleanup phase and communicate the cost of cleanups more effectively.

> **Action:** No additional action will be taken as this is an ongoing effort and the information is reported out on a regular basis. *(OSRTI)*

Recommendation 27: Effectively Communicate All Cleanup Accomplishments. OSWER and the lead Region should work together to ensure all site cleanup work (including work completed under the SAS program) is tracked and reported internally and externally to ensure accomplishments of the national Program are appropriately communicated to the public and Congress.

> **Action:** This activity is already part of EPA's procedures. This is part of GPRA reporting; the SPIM includes SASs in all appropriate reporting categories. OSRTI will verify the functioning of CERCLIS for FY 2004 accomplishments. No additional action will be taken against this recommendation. *(OSRTI)*

Recommendation 90: Prepare Monthly SSC Reports. OSWER and OCFO, if needed, should work together to establish monthly reports that staff and managers can use to better track SSC collections, obligations, and expenditures.

> **Action:** This recommendation has already been accomplished. OSRTI works with OCFO to ensure that the Regions receive ongoing regular reports on SSC balances to help them manage these accounts. *(OSRTI)*

Recommendation 94: Establish Regular Cross-Agency Meetings. The Regions should continue or should reestablish regular meetings between Regional senior managers and their

counterparts [in the U.S. Corps of Engineers, although applicable to IAGs with all federal agencies] to discuss project milestones, deliverables status, and opportunities to minimize cost growth.

> **Action:** This is a low priority because it is already being done to varying degrees in the Regions. This is currently being coordinated in the Regions. *(Lead Region)*

Recommendation 98: Provide Information About New Agency Systems. OARM and OCFO should work with Senior Resource Officials to communicate the development and deployment status of new Agency-wide systems (financial management, grants and IAG management).

> **Action:** There is an on-going effort to address this recommendation. A new Agency-wide Contract Management System is critical to the optimization of Superfund dollars through the facilitation of end-to-end financial management. OAM has three alternatives being assessed. OAM is continuing the effort to obtain funding and approval for an acquisition system. A draft Capital Planning and Investment Control proposal will be submitted in 2005. *(OARM/OAM)*

Recommendation 99: Provide Information About Current Agency Systems. OSWER and the Regions should evaluate which systems and tools currently exist or are under construction and should circulate this information in order to avoid duplication of data systems and tools.

> **Action:** OSRE will continue to act as a liaison for the Superfund enforcement data that exists in CERCLIS (OSWER) and ICIS (OECA). OSRE routinely works with the Office of Compliance on system development and enhancement to avoid duplication and inconsistencies between the two data systems, where practicable. *(OECA)*

Index of Recommendations

The following is a list of: the recommendation numbers (and whether the recommendation is 'key' in meeting the Study's primary objective); the Headline for the Recommendation, as it appears in the Action Plan; the Page where the Recommendation is located in the Action Plan; the Page where the Recommendation is located in the 120-Day Study; and the Lead Office(s).

Recommendation Number	Headline	Action Plan Page	Study Page	Lead Office(s)
1 (Key)	Create Superfund Board of Directors	2	35	BOD
2 (Key)	Develop Hierarchy of Program Goals	2	37	OSRTI
3	Develop PMs Related to Hierarchy of Goals	7	37	OSWER
4	Maintain Sufficient Site Listing	37	38	OSRTI
5	Start Fund-Lead Actions	37	38	OSRTI
6	Develop One Cleanup Program Policies	4	39	OSWER
7	Establish One Cleanup Program PMs	7	39	OSRTI
8	National Program Managers adopt PMs	8	39	OSWER, OSRTI
9 (Key)	Adopt Shared Goals for Program Activities	2	40	OSRTI, OECA, OSRE
10 (Key)	Evaluate NPL Listing Trends for RCRA TSDFs	41	40	OSRTI
11 (Key)	Determine Adequacy of RCRA Financial Assurance	41	40	OSW/ OSRTI
12 (Key)	Evaluate Financial Assurance for non-RCRA Facilities	42	40	OSRTI, OECA
13	Effectively Communicate Cleanup Costs	44	41	OSRTI
14	Simplify the Budget	11	42	OSRTI, OSRE, OCFO
15 (Key)	Allocate Special Account/State Cost Share Funding	19	42	OSRTI
16	Share Work Across the Regions	15	45	Lead Region
17	Share Work Across the Regions	15	45	Lead Region
18 (Key)	Remedial Pipeline Benchmarking	25	46	OSRTI
19 (Key)	Prepare for FY07 Staff Redistribution and Direct HQs Resources to Cleanup	17	46	OCFO
20 (Key)	Prepare for FY07 Staff Redistribution and Direct HQs Resources to Cleanup	17	46	OCFO
21 (Key)	Deobligate FY 2004 Funds	13	47	OSRTI
22	Update Deobligation Policies/Guidance	4	47	OSRTI, OSRE
23	Maintain Sufficient Site Listing	37	50	OSRTI
24 (Key)	Maximizing PRP Involvement	37	50	OSRTI
25	Revise SAS Policy	5	52	OSRTI

Recommendation Number	Headline	Action Plan Page	Study Page	Lead Office(s)
26	Prioritize Superfund Alternative Sites	18	52	OSRTI
27	Effectively Communicate all Cleanup Accomplishments	44	52	OSRTI
28	Plan Early for Mega-Sites	11	53	OSRTI
29	Review Brownfields/Superfund Site Assessment Criteria	21	54	OSRTI, OBCR
30	Integrate Site Assessment and Remedial Activities	21	54	Lead Region
31	Adopt Best Practice Approach	15	54	OSRTI
32	Clarify Exemption Process	5	55	OSRTI, OEM
33	Address Homeland Security FTE Funding	10	56	OSWER/ OEM, OCFO
34	Determine Additional Nationally Significant Incident Funding/Staff Needs	10	56	OSWER/ OEM, OCFO
35	Cross-Train Managers for Nationally Significant Incidents	10	56	OSWER/ OEM, OCFO
36 (Key)	Evaluate Removal and NPL Listing Trends by Industry Sector	42	56	OEM
37 (Key)	Enhance NRRB's Role	22	57	OSRTI
38 (Key)	Enhance NRRB's Role	22	58	OSRTI
39	Require Value Engineering	22	58	OSRTI
40 (Key)	Conduct Long-Term Response Reviews	22	58	OSRTI
41	Review RODs	23	58	OSRTI
42	Identify and Share Successful Remedies	23	60	OSRTI
43	Ensure Senior Managers Help Select Cleanup Mechanism	24	61	Lead Region
44 (Key)	Conduct On-Site Oversight	24	62	Lead Region
45	Review EPA Policies on State-lead Cleanups and the Adequacy of these Actions	39	62	OSRTI
46	Re-examine State-lead Sites	40	62	OSRTI
47	Share Work Across the Regions	15	62	Lead Region
48	Determine State Core Funding Needs	40	63	OSRTI
49	Implement FASTAC Approach	25	67	OSRTI
50	CLP and ESAT Resources	16	67	OSRTI
51	Forecast Long-Term Analytical Needs	16	68	OSRTI
52	Transfer PRP Oversight to OECA	12	70	OECA
53 (Key)	Conduct Effective Early PRP Searches	37	72	OSRE
54 (Key)	Increase Removal Enforcement	38	72	OECA
55	Establish Contact for Enforcement First for the Removal Program	38	73	OEM

Recommendation Number	Headline	Action Plan Page	Study Page	Lead Office(s)
56	Enhance Insurance-Related Cost Recovery Expertise	38	73	OECA
57	Evaluate Enforcement PMs; Adopt Site Specific PMs	8	74	OECA
58 (Key)	Ensure Efficient PRP Oversight	38	75	OECA
59	Affirm Commitment to Cost Recovery	2	76	OSRE
60	Improve Tracking and Cost Recovery	16	76	Lead Region
61 (Key)	Update Special Accounts Guidance	19	76	OECA
62 (Key)	Report on Special Accounts	19	76	OECA
63	Determine if Senior Managers' Actions are Effective	3	81	OSRTI, ORD
64	Senior Managers Meet about Superfund Research Program	3	81	OSRTI, ORD
65	Develop Cost-Benefit Analysis for RODs	25	81	OSRTI
66 (Key)	Analyze Superfund Charging	13	85	OCFO/ OFM
67 (Key)	Set a Site-Specific Charging Goal	14	89	OECA
68 (Key)	Support Site-Specific Charging	14	89	OCFO
69	Build Cost Analysis Expertise	25	89	OSRTI
70	Review Brownfields Deobligation Policies and Evaluate Grants Status	29	90	OBCR
71	Review Brownfields Deobligation Policies and Evaluate Grants Status	29	90	OBCR
72 (Key)	Establish $5 Million Pool	29	92	OARM/ OAM
73 (Key)	Resolve Federal Agency Billing Issues	30	92	OCFO
74	Circulate Direct Cite Payment Process	34	92	OSRTI
75 (Key)	Review IAG Closeout Policies	30	92	OARM
76 (Key)	Resolve Grant Closeout Issues	30	92	OARM
77 (Key)	Resolve Federal Agency IAG Closeout Issues	30	92	OARM
78	Establish Closeout PMs	31	92	OARM
79	Encourage Use of Alternative Contracts and Conduct Training	34	94	OARM
80	Encourage Use of Alternative Contracts and Conduct Training	34	94	OARM
81	Consolidating Contract Functions	31	94	OARM
82	Provide Increased Contract Management Training	35	94	OARM/ OAM
83 (Key)	Monitor Contract Funding	31	94	OARM/ OAM
84 (Key)	Establish Policies for the Duration of Grants and IAGs	31	95	OARM
85 (Key)	Establish Grant-Monitoring Criteria	32	95	OARM/ GAD
86	Improve IAG Training Course	35	96	OARM

Recommendation Number	Headline	Action Plan Page	Study Page	Lead Office(s)
87 (Key)	Improve Grant Monitoring	32	96	OARM/ GAD
88	Provide IGMS Module Updates	32	96	OARM/ GAD
89	Update State Cost Share and Related Policies	5	96	OSRTI
90	Prepare Monthly SSC Reports	44	96	OSRTI
91	Establish SSC PMs	8	96	OSRTI
92	Analyze Federal Agency Indirect Cost Rates	32	99	OARM
93	Negotiate National IAG Overhead Rate	33	99	OARM
94	Establish Regular Cross-Agency Meetings	44	99	Lead Region
95 (Key)	Develop Special Account Fact Sheets	19	100	OECA/ OCFO
96 (Key)	Report on Special Accounts	19	100	OECA
97 (Key)	Use Old Special Account Funds	20	100	OECA
98	Provide Information About New Agency Systems	45	101	OARM
99	Provide Information About Current Agency Systems	45	101	OSRTI/ OSRE
100	Revise Superfund PMs	9	109	ORD
101 (Key)	Remedial Pipeline Benchmarking	25	109	OSRTI
102	Adopt New Superfund PMs	9	109	OECA
103(op) (Key)	Reduce Costs to Meet Numerical Targets	12	43	OSWER, OECA, OCFO
104(op)	Establish National Standards and Action Levels	5	59	OSRTI
105(op)	Use Presumptive Remedies and Generic Designs	23	59	OSRTI
106(op)	Implement One Allocation for all Response Activities to the Regions	12	63	OSRTI
107(op)	Transfer Management and Support to the EPM Appropriations	12	86	OCFO
108(op)	Return Deobligated Dollars to the Regions	13	90	OSRTI